



Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia Master Agreement

Order Date: 11-08-2021

CORRECT ORDER NUMBER MUST
APPEAR ON ALL PACKAGES, INVOICES,
AND SHIPPING PAPERS. QUESTIONS
CONCERNING THIS ORDER SHOULD BE
DIRECTED TO THE DEPARTMENT
CONTACT.

Order Number:	CMA 0601 0601 MAP2200000002 1	Procurement Folder:	943720
Document Name:	Image and Face Processing Module with Cobwebs	Reason for Modification:	
Document Description:	Image and Face Processing Module with Cobwebs		
Procurement Type:	Central Sole Source		
Buyer Name:			
Telephone:			
Email:			
Shipping Method:	Best Way	Effective Start Date:	2021-10-20
Free on Board:		Effective End Date:	2024-05-13

VENDOR		DEPARTMENT CONTACT	
Vendor Customer Code:	VS0000037232	Requestor Name:	Larry D McDonnell
COBWEBS AMERICA INC		Requestor Phone:	304-414-3422
1441 BROADWAY STE 5019		Requestor Email:	LARRY.MCDONNELL@WV.GOV
NEW YORK	NY		
US	10018		
Vendor Contact Phone:	2019379707		
Extension:			
Discount Details:			
	Discount Allowed	Discount Percentage	Discount Days
#1	No	0.0000	0
#2	No		
#3	No		
#4	No		

22
FILE LOCATION _____

INVOICE TO	SHIP TO
PROCUREMENT OFFICER 304-558-2930	ADMINISTRATIVE SECRETARY 304-558-4831
DEPARTMENT OF HOMELAND SECURITY	FUSION CENTER
BLDG 1 RM W400	4TH FLOOR SOUTH WING
1900 KANAWHA BLVD E	1700 MACCORKLE AVE SE
CHARLESTON	CHARLESTON
WV 25305	WV 25314
US	US

11-10-21
BAX

Purchasing Division's File Copy

Total Order Amount: _____ Open End

ENTERED

PURCHASING DIVISION AUTHORIZATION

DATE: *Tanya H. Hester*
ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM

DATE: *John S. Gray*
ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION

DATE: *Beverly Toler*
11-29-2021
ELECTRONIC SIGNATURE ON FILE

11/29/2021

Extended Description:

Direct Award

The Vendor, Cobwebs America, Inc., agrees to enter with the West Virginia Homeland Security, WV Fusion Center, into a contract to provide Image - Face Processing subscription, per the attached documentation.

The Image - Face Processing subscription will be used in conjunction with Tangles Bronze Subscription WEB Intelligence Platform, WebLoc User licenses, and user training from COBWEBS Technologies, as part of the original contract, CMA MAP2100000002 dated 05/14/2021 attached hereto and made a part of hereof.

Contract Term: 10/20/2021 through 05/13/2024 to run concurrent with original contract, CMA MAP21*02.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	43230000			EA	17500.000000
	Service From	Service To			

Commodity Line Description: Image - Face Processing Subscription

Extended Description:

Image - Face Processing Subscription

	Document Phase	Document Description	Page 3
MAP2200000002	Draft	Image and Face Processing Module with Cobwebs	

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

DIRECT AWARD AGREEMENT FORM:

Reference to Prior Contract

THIS DIRECT AWARD AGREEMENT is by and between Cobwebs America, Inc. (hereinafter "Cobwebs") and the State of West Virginia, (hereinafter "State"), (both referred to as "Parties") and is intended to facilitate the purchase of Image and Face Processing Module with Cobwebs ("Contract").

WHEREAS, the State's intent to enter into a new direct award contract with Cobwebs has been published as CMA MAP2200000002 in the wvOASIS system.

WHEREAS, the parties have previously agreed to contract terms through a prior contract identified as CMA MAP2100000002 (Prior Contract), and desire to incorporate the terms of the Prior Contract into this new Contract to the extent not contradicted by this Direct Award Agreement Form.

WHEREAS, this Direct Award Agreement Form is intended to identify the documents that comprise the contract and provide an order of priority for the various documents identified.

NOW THEREFORE, the Parties hereto hereby agree as follows:

- 1. Order of Precedence:** The Contract is comprised of the documents listed in this section. The terms and conditions contained in the various documents shall be interpreted according to the priority given to the Contract document in this section.

Contract Documents:

- a. Direct Award Agreement From (this document) – First Priority
- b. Vendor Quote – Attached as Exhibit A – Second Priority (Limited to commodity/service, quantity, and price; and expressly excluding weblinks or references to other documents)
- c. Prior Contract Identified as CMA MAP2100000002 – Attached as Exhibit B – Third Priority

- 2. Modifications:** The Prior Contract is modified as follows:

- a. **Commodity/Service Being Purchased:** The commodities/services being purchased under this contract are governed by the Vendor's Quote and supersede any sales obligations contained in the Prior Contract.
- b. **Contract Term:** The term of this Contract shall be effective on 10/20/2021 through 05/13/2024. Any reference to contract term in the Prior Agreement is hereby deleted for purposes of this Contract.

3. Additional Contract Terms. The following additional terms are added to the Contract.

- a. **Void Contract Clauses** – This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date of last signature below.

STATE OF WEST VIRGINIA

By: _____

Name: _____

Its: _____

Date: _____

[Signature]

Steven D. Hirsch

Deputy Director, WVFZ

11/19/21

VENDOR: Cobwebs America Inc

By: _____

Name: Eyal Bachar

Its: Managing Director, North America

Date: 11/19/2021

Eyal Bachar

Exhibit A – Vendor Quote



COBWEBS

QUOTATION

Date	Payment Terms	Revision	Effective From	Effective To
10-20-2021	NET 30	1	10-20-2021	11-19-2021
Customer Contact		Cobwebs America Inc Contact		
Jack Luikart 304-558-4831 Jack.w.luikart@wv.gov		Evan Hiatt 732-616-9981 Evan.hiatt@cobwebs.com		
Bill To		Ship To		
West Virginia Fusion Center		West Virginia Fusion Center		

Bronze Program Add on Modules	Qty	Initial Service Period in Months	Unit Price Per Period (\$ USD)
Image – Face Processing Subscription	1	12	\$17,500

Milestones	Payment amount	Payment Schedule	Term
Year 1 for Face Processing Subscription	\$17,500	Advance Payment	Due upon PO
Year 2 for Face Processing Subscription	\$17,500	12 months from PO *	
Year 3 for Face Processing Subscription	\$17,500	24 months from PO	

*Subscription renewal for Year 2 can coincide with original Tangles and WebLoc Year 1 subscription end date in order to co-term

Exhibit B



Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia Master Agreement

Order Date: 05-04-2021

CORRECT ORDER NUMBER MUST
APPEAR ON ALL PACKAGES, INVOICES
AND SHIPPING PAPERS. QUESTIONS
CONCERNING THIS ORDER SHOULD BE
DIRECTED TO THE DEPARTMENT
CONTACT.

Order Number:	CMA 0601 0601 MAP210000002 1	Procurement Folder:	855016
Document Name:	Cobwebs Web Intelligence Investigation Platform	Reason for Modification:	
Document Description:	Cobwebs Web Intelligence Investigation Platform		
Procurement Type:	Central Sole Source		
Buyer Name:			
Telephone:			
Email:			
Shipping Method:	Best Way	Effective Start Date:	2021-05-14
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	2024-05-13

VENDOR	DEPARTMENT CONTACT																				
Vendor Customer Code: VS0000037232 COBWEBS AMERICA INC 1441 BROADWAY STE 5019 NEW YORK NY 10018 US Vendor Contact Phone: 2019379707 Extension: Discount Details: <table><thead><tr><th></th><th>Discount Allowed</th><th>Discount Percentage</th><th>Discount Days</th></tr></thead><tbody><tr><td>#1</td><td>No</td><td>0.0000</td><td>0</td></tr><tr><td>#2</td><td>No</td><td></td><td></td></tr><tr><td>#3</td><td>No</td><td></td><td></td></tr><tr><td>#4</td><td>No</td><td></td><td></td></tr></tbody></table>		Discount Allowed	Discount Percentage	Discount Days	#1	No	0.0000	0	#2	No			#3	No			#4	No			Requestor Name: Larry D McDonnell Requestor Phone: 304-414-3422 Requestor Email: larry.mcdonnell@wv.gov 21 FILE LOCATION 45206
	Discount Allowed	Discount Percentage	Discount Days																		
#1	No	0.0000	0																		
#2	No																				
#3	No																				
#4	No																				

INVOICE TO	SHIP TO
PROCUREMENT OFFICER 304-558-2930 DEPARTMENT OF HOMELAND SECURITY BLDG 1 RM W400 1900 KANAWHA BLVD E CHARLESTON WV 25305 US	ADMINISTRATIVE SECRETARY 304-558-4831 FUSION CENTER 4TH FLOOR SOUTH WING 1700 MACCORKLE AVE SE CHARLESTON WV 25314 US

5/12/2021

Purchasing Division's File Copy

Total Order Amount: Open End

ENTERED

5/12/21
PURCHASING DIVISION AUTHORIZATION
DATE: *Tanya H. Shaboo*
ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM
DATE: *5-25-21*
ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION
Robert M. ...
DATE: *5/26/2021*
ELECTRONIC SIGNATURE ON FILE

Extended Description:

Direct Award

The vendor, Cobwebs America, Inc., agrees to enter with the agency, WV Department of Homeland Security, WV Fusion Center, into a contract to provide Tangles Bronze Subscription WEB Intelligence Platform, WebLoc User Licenses, and User Training from COBWEB Technologies, per the attached documentation.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	43230000			YR	60000.000000
	Service From	Service To			

Commodity Line Description: Bronze Subscription WEB Intelligence Platform**Extended Description:**

Bronze Subscription WEB Intelligence Platform

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
2	43230000			YR	15000.000000
	Service From	Service To			

Commodity Line Description: WebLoc Single User License**Extended Description:**

WebLoc Single User License

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
3	43230000			YR	15000.000000
	Service From	Service To			

Commodity Line Description: Additional Concurrent Bronze Users**Extended Description:**

Additional Concurrent Bronze Users

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
4	43230000			EA	8000.000000
	Service From	Service To			

Commodity Line Description: On Site Training**Extended Description:**

Up to 4 Trainees of 2 Days in Person On Site Training

	Document Phase	Document Description	Page 3
MAP2100000002	Draft	Cobwebs Web Intelligence Investigation Platform	

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

ORDER OF PRECEDENT AND MODIFICATION ADDENDUM

THIS ORDER OF PRECEDENT AND MODIFICATION ADDENDUM, (hereinafter "Addendum") by and between, Cobwebs America Inc ("Cobwebs") and the State of West Virginia (hereinafter "State"), (both referred to as "Parties"), is intended to memorialize certain terms and conditions and to provide an order of precedent for all documents that comprise the contract resulting from the direct award solicitation for the West Virginia Intelligence Fusion Center (the "Contract").

NOW THEREFORE, the Parties hereto hereby agree as follows:

1. **Order of Precedence:** The Contract is comprised of the documents listed in this section. The terms and conditions contained in the various documents shall be interpreted according to the priority given to the Contract document in this section. In that way, any terms and conditions contained in the first priority document shall prevail over conflicting terms in the second priority document, and so on.

Contract Documents:

- a. **Order of Precedence and Modification Addendum** (this document) – First Priority
- b. **WV-96 Agreement Addendum** (Attached as Exhibit A) – Second Priority
- c. **State of West Virginia General Terms and Conditions** (Attached as Exhibit B) – Third Priority
- d. **West Virginia Office of Technology Software as a Service Addendum** (Attached as Exhibit C) – Fourth Priority
- e. **Cobwebs Documents** (Attached as Exhibit D) – Fifth Priority

2. **Modifications:** The documents listed below are modified as indicated below.

- a. **WV-96:** The WV-96 is modified as follows:

- i. The term entitled "9. Limiting Liability" is modified by adding thereto a final sentence that states:

"In no event shall Cobwebs, together with its Affiliates and directors, officers, employees and agents, be liable for (i) any special, indirect, incidental, consequential, exemplary and/or punitive damages, (ii) any loss of and/or damage to Content and/or other data, loss of business, loss of revenues, loss of profits, loss of goodwill or loss of use, (iii) any damages resulting from use of the Software in a manner not in compliance with this EULA and/or (iv) any third party claims against "Customer"; in each case, arising out of or in any way related to the Software or this EULA, unless said damages are a direct result of any negligent act or omissions committed by Cobwebs together with its Affiliates and directors, officers, employees and agents, or said damages are deemed to be direct damages to person or property."

- b. **General Terms and Conditions:** The General Terms and Conditions (Exhibit B) are modified as shown below.

- i. The parties agree that payments for years two and three of the contract are due at month 12 and month 24 respectively.

(Signature page follows.)

IN WITNESS WHEREOF, the Parties have entered into this Addendum as of the date of last signature below.

STATE OF WEST VIRGINIA

By: Steven Petrosca

Name: West Virginia Fusicenter

Its: S

Date: 4/15/21

COBWEBS AMERICA INC.

By: Eyal Bachar

Name: Eyal Bachar

Its: Managing director NA

Date: April 14th 2021

EXHIBIT A – WV-96 Agreement Addendum

**STATE OF WEST VIRGINIA
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"): WV Fusion Center

Vendor: Cobwebs America Inc

Contract/Lease Number ("Contract"): Cobwebs Web Intelligence Investigation Platform / CSSD MAP21 #2

Commodity/Service: Web Intelligence Investigation Platform

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**
2. **PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

Any language imposing any interest or charges due to late payment is deleted.

3. **FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
4. **RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.

5. **DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
7. **GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
8. **RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.
9. **LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.
10. **TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
11. **NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-2-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.
- Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~striking through~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: West Virginia Fusion Center

By: S. Patton

Printed Name: Steven Patton

Title: Deputy Director

Date: 4/15/21

Vendor: Cobwebs America Inc.

By: Eyal Bachar

Printed Name: Eyal Bachar

Title: Managing Director

Date: April 12, 2021

Exhibit B – State of West Virginia General Terms and Conditions

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of a Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

Initial Contract Term: This Contract becomes effective on May 14, 2021 and the initial contract term extends until May 13, 2024.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to zero (0) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

☐ **One Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Other:** See attached _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☒ **Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☐ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

☐ **BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

☐ **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

☐ **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

☐ **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

☐

☐

☐

☐

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section.

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☐ **Automobile Liability Insurance** in at least an amount of: _____ per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☐ **Cyber Liability Insurance** in an amount of: _____ per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

☐☐☐☐

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

9. WORKERS' COMPENSATION INSURANCE: The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. [Reserved]

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____

☐ Liquidated Damages Contained in the Specifications

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence with regard to all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

38. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE: This Contract may be utilized by other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"), provided that both the Other Government Entity and the Vendor agree. Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

39. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

40. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☐ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.requisitions@wv.gov.

41. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision. The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Revised 03/15/2021

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

42. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
- c. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
- d. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

43. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a

“substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

44. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the vendor must submit to the Agency a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

45. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

Eyal Bachar, Managing Director

(Name, Title)

Eyal Bachar, Managing Director

(Printed Name and Title)

1441 Broadway Suite 5019, New York, New York, 10018

(Address)

212-201-9256

(Phone Number) / (Fax Number)

eyal.bachar@cobwebs.com

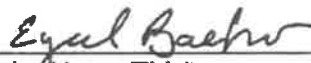
(email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

Cobwebs America Inc.

(Company)

Eyal Bachar, Managing Director



(Authorized Signature) (Representative Name, Title)

Eyal Bachar, Managing Director

(Printed Name and Title of Authorized Representative)

April 12, 2021

(Date)

212-201-9256

(Phone Number) (Fax Number)

Exhibit C – State of West Virginia SaaS Addendum

Software as a Service Addendum

1. Definitions:

Acceptable alternative data center location means a country that is identified as providing equivalent or stronger data protection than the United States, in terms of both regulation and enforcement. DLA Piper's Privacy Heatmap shall be utilized for this analysis and may be found at <https://www.dlapiperdataprotection.com/index.html?t=world-map&c=US&c2=IN>.

Authorized Persons means the service provider's employees, contractors, subcontractors or other agents who have responsibility in protecting or have access to the public jurisdiction's personal data and non-public data to enable the service provider to perform the services required.

Data Breach means the unauthorized access and acquisition of unencrypted and unredacted personal data that compromises the security or confidentiality of a public jurisdiction's personal information and that causes the service provider or public jurisdiction to reasonably believe that the data breach has caused or will cause identity theft or other fraud.

Individually Identifiable Health Information means information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Non-Public Data means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the public jurisdiction because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

Personal Data means data that includes information relating to a person that identifies the person by first name or first initial, and last name, and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, state identification card); financial account information, including account number, credit or debit card numbers; or protected health information (PHI).

Protected Health Information (PHI) means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer.

Public Jurisdiction means any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

Public Jurisdiction Data means all data created or in any way originating with the public jurisdiction, and all data that is the output of computer processing or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

Public Jurisdiction Identified Contact means the person or persons designated in writing by the public jurisdiction to receive security incident or breach notification.

Restricted data means personal data and non-public data.

Security Incident means the actual unauthorized access to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a data breach.

Service Provider means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

Software-as-a-Service (SaaS) means the capability provided to the consumer to use the provider's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the public jurisdiction's written request.

3. Data Protection and Privacy: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information and comply with the following conditions:

- a) The service provider shall implement and maintain appropriate administrative, technical and physical security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. In Appendix A,

the public jurisdiction shall indicate whether restricted information will be processed by the service provider. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind. The service provider shall ensure that all such measures, including the manner in which personal data and non-public data are collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Addendum and shall survive termination of the underlying contract.

- b) The service provider represents and warrants that its collection, access, use, storage, disposal and disclosure of personal data and non-public data do and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations, policies and directives.
- c) The service provider shall support third-party multi-factor authentication integration with the public jurisdiction third-party identity provider to safeguard personal data and non-public data.
- d) If, in the course of its engagement by the public jurisdiction, the service provider has access to or will collect, access, use, store, process, dispose of or disclose credit, debit or other payment cardholder information, the service provider shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at the service provider's sole cost and expense. All data obtained by the service provider in the performance of this contract shall become and remain the property of the public jurisdiction.
- e) All personal data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of the personal data.
- f) Unless otherwise stipulated, the service provider shall encrypt all non-public data at rest and in transit, in accordance with recognized industry practice. The public jurisdiction shall identify data it deems as non-public data to the service provider.
- g) At no time shall any data or process – that either belong to or are intended for the use of a public jurisdiction or its officers, agents or employees — be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.
- h) The service provider shall not use or disclose any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.
- i) Data Location. For non-public data and personal data, the service provider shall provide its data center services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to store public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its

U.S. data centers. With agreement from the public jurisdiction, this term may be met by the service provider providing its services from an acceptable alternative data center location, which agreement shall be stated in Appendix A. The Service Provider may also request permission to utilize an acceptable alternative data center location during a procurement's question and answer period by submitting a question to that effect. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support.

4. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any confirmed security incident or data breach.

- a) **Incident Response:** The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as defined by law or contained in the contract. Discussing security incidents with the public jurisdiction shall be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes defined by law or contained in the contract.
- b) **Security Incident Reporting Requirements:** The service provider shall report a confirmed Security Incident as soon as practicable, but no later than twenty-four (24) hours after the service provider becomes aware of it, to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>, and (3) the public jurisdiction point of contact for general contract oversight/administration. The following information shall be shared with the public jurisdiction: (1) incident phase (detection and analysis; containment, eradication and recovery; or post-incident activity), (2) projected business impact, and, (3) attack source information.
- c) **Breach Reporting Requirements:** Upon the discovery of a data breach or unauthorized access to non-public data, the service provider shall immediately report to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>, and the public jurisdiction point of contact for general contract oversight/administration.

5. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of the service provider.

- a) Immediately after being awarded a contract, the service provider shall provide the public jurisdiction with the name and contact information for an employee of service provider who shall serve as the public jurisdiction's primary security contact and shall be available to assist the public jurisdiction twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a data breach. The service provider may provide this information in Appendix A.

- b) Immediately following the service provider's notification to the public jurisdiction of a data breach, the parties shall coordinate cooperate with each other to investigate the data breach. The service provider agrees to fully cooperate with the public jurisdiction in the public jurisdiction's handling of the matter, including, without limitation, at the public jurisdiction's request, making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law and regulation.
- c) Within 72 hours of the discovery, the service provider shall notify the parties listed in 4(c) above, to the extent known: (1) date of discovery; (2) list of data elements and the number of individual records; (3) description of the unauthorized persons known or reasonably believed to have improperly used or disclosed the personal data; (4) description of where the personal data is believed to have been improperly transmitted, sent, or utilized; and, (5) description of the probable causes of the improper use or disclosure.
- d) The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and prevent any further data breach at the service provider's expense in accordance with applicable privacy rights, laws and regulations and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
- e) If a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state or federal law; (3) a credit monitoring service (4) a website or a toll-free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach (or other similar publication if the named publication has not issued an updated average per record per cost in the last 5 years at the time of the data breach); and (5) complete all corrective actions as reasonably determined by service provider based on root cause. The service provider agrees that it shall not inform any third party of any data breach without first obtaining the public jurisdiction's prior written consent, other than to inform a complainant that the matter has been forwarded to the public jurisdiction's legal counsel and/or engage a third party with appropriate expertise and confidentiality protections for any reason connected to the data breach. Except with respect to where the service provider has an independent legal obligation to report a data breach, the service provider agrees that the public jurisdiction shall have the sole right to determine: (1) whether notice of the data breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others, as required by law or regulation, or otherwise in the public jurisdiction's discretion; and (2) the contents of such notice, whether any

type of remediation may be offered to affected persons, and the nature and extent of any such remediation. The service provider retains the right to report activity to law enforcement.

6. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which in any way might reasonably require access to the data of the public jurisdiction. The service provider shall not respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

7. Termination and Suspension of Service:

- a) In the event of a termination of the contract, the service provider shall implement an orderly return of public jurisdiction data within the time period and format specified in the contract (or in the absence of a specified time and format, a mutually agreeable time and format) and after the data has been successfully returned, securely and permanently dispose of public jurisdiction data.
- b) During any period of service suspension, the service provider shall not take any action to intentionally erase any public jurisdiction data.
- c) In the event the contract does not specify a time or format for return of the public jurisdiction's data and an agreement has not been reached, in the event of termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any public jurisdiction data for a period of:
 - 10 days after the effective date of termination, if the termination is in accordance with the contract period
 - 30 days after the effective date of termination, if the termination is for convenience
 - 60 days after the effective date of termination, if the termination is for cause

After such period, the service provider shall have no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control.

- d) The public jurisdiction shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the Contract.
- e) The service provider shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the public jurisdiction. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the public jurisdiction.

8. Background Checks: The service provider shall conduct criminal background checks in compliance with W.Va. Code §15-2D-3 and not utilize any staff to fulfill the obligations

of the contract, including subcontractors, who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the public jurisdiction's information among the service provider's employees and agents.

9. Oversight of Authorized Persons: During the term of each authorized person's employment or engagement by service provider, service provider shall at all times cause such persons to abide strictly by service provider's obligations under this Agreement and service provider's standard policies and procedures. The service provider further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of personal data by any of service provider's officers, partners, principals, employees, agents or contractors.

10. Access to Security Logs and Reports: The service provider shall provide reports to the public jurisdiction in CSV format agreed to by both the service provider and the public jurisdiction. Reports shall include user access (successful and failed attempts), user access IP address, user access history and security logs for all public jurisdiction files and accounts related to this contract.

11. Data Protection Self-Assessment: The service provider shall perform a Cloud Security Alliance STAR Self-Assessment by completing and submitting the "Consensus Assessments Initiative Questionnaire" to the Public Jurisdiction Identified Contact. The service provider shall submit its self-assessment to the public jurisdiction prior to contract award and, upon request, annually thereafter, on the anniversary of the date of contract execution. Any deficiencies identified in the assessment will entitle the public jurisdiction to disqualify the bid or terminate the contract for cause.

12. Data Center Audit: The service provider shall perform an audit of its data center(s) at least annually at its expense and provide a redacted version of the audit report upon request. The service provider may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit. Any deficiencies identified in the report or approved equivalent will entitle the public jurisdiction to disqualify the bid or terminate the contract for cause.

13. Change Control and Advance Notice: The service provider shall give 30 days, advance notice (to the public jurisdiction of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics.

14. Security:

- a) At a minimum, the service provider's safeguards for the protection of data shall include: (1) securing business facilities, data centers, paper files, servers, back-up

systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (2) implementing network, device application, database and platform security; 3) securing information transmission, storage and disposal; (4) implementing authentication and access controls within media, applications, operating systems and equipment; (5) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (6) providing appropriate privacy and information security training to service provider's employees.

- b) The service provider shall execute well-defined recurring action steps that identify and monitor vulnerabilities and provide remediation or corrective measures. Where the service provider's technology or the public jurisdiction's required dependence on a third-party application to interface with the technology creates a critical or high risk, the service provider shall remediate the vulnerability as soon as possible. The service provider must ensure that applications used to interface with the service provider's technology remain operationally compatible with software updates.
- c) Upon the public jurisdiction's written request, the service provider shall provide a high-level network diagram with respect to connectivity to the public jurisdiction's network that illustrates the service provider's information technology network infrastructure.

15. Non-disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of public jurisdiction data to that which is absolutely necessary to perform job duties.

16. Import and Export of Data: The public jurisdiction shall have the ability to securely import, export or dispose of data in standard format in piecemeal or in entirety at its discretion without interference from the service provider. This includes the ability for the public jurisdiction to import or export data to/from other service providers identified in the contract (or in the absence of an identified format, a mutually agreeable format).

17. Responsibilities: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the cloud services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the service provider.

18. Subcontractor Compliance: The service provider shall ensure that any of its subcontractors to whom it provides any of the personal data or non-public data it receives hereunder, or to whom it provides any personal data or non-public data which the service provider creates or receives on behalf of the public jurisdiction, agree to the restrictions, terms and conditions which apply to the service provider hereunder.

19. Right to Remove Individuals: The public jurisdiction shall have the right at any time to require that the service provider remove from interaction with public jurisdiction any

service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall provide the service provider with notice of its determination, and the reasons it requests the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract without the public jurisdiction's consent.

20. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan executive summary upon request. Lack of a plan will entitle the public jurisdiction to terminate this contract for cause.

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall use web services exclusively to interface with the public jurisdiction's data in near real time when possible.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all personal data.

24. Subscription Terms: Service provider grants to a public jurisdiction a license to:

- a. Access and use the service for its business purposes;
- b. For SaaS, use underlying software as embodied or used in the service; and
- c. View, copy, upload, download (where applicable), and use service provider's documentation.

25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Addendum to the contrary.

AGREED:

Name of Agency: _____

Name of Vendor: Cobwebs America Inc

Signature: _____

Signature: Eyal Baehr

Title: _____

Title: Managing Director, North America

Date: _____

Date: April 14th 2021

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. Required information not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Service Provider/Vendor: Cobwebs

Name of Agency: West Virginia Fusion Center

Agency/public jurisdiction's required information:

1. Will restricted information be processed by the service provider?
Yes ☐
No ☒
2. If yes to #1, does the restricted information include personal data?
Yes ☐
No ☐
3. If yes to #1, does the restricted information include non-public data?
Yes ☐
No ☐
4. If yes to #1, may the service provider store public jurisdiction data in a data center in an acceptable alternative data center location, which is a country that is not the U.S.?
Yes ☐
No ☐

5. Provide name and email address for the Department privacy officer:

Name: Steven Patterson
Email address: Steven.d.patterson@wv.gov

Vendor/Service Provider's required information:

6. Provide name and contact information for vendor's employee who shall serve as the public jurisdiction's primary security contact:

Name: Evan Hiett
Email address: evan.hiett@cobwebs.com
Phone Number: 1.732.616.9981

Exhibit D – Vendor Documents



1. Terms and Conditions

1.1 Proprietary and confidential information

Nothing in this Proposal shall be deemed to grant to the Customer and/or End User any rights in patents, copyrights, proprietary information and trade secrets in the hardware, licensed software, documentation and services (collectively, the Deliverables). Customer and/or the End User shall retain and shall not remove or destroy any copyright, trademark, logos or other intellectual property rights legends or notices placed or contained in the Deliverables.

The Terms of this Proposal are confidential and may only be disclosed on a need to know basis, and in any event, may not be disclosed to any third party. Customer and End Users are prohibited from disclosing use of the Deliverables, names of Cobwebs' tools and technologies, the existence of this agreement or the relationship between Customers and End Users and Cobwebs to any third party, without the prior written consent of Cobwebs. Customers and End Users affirm that they will not reference Cobwebs (including any Cobwebs tool or technology) or use the output of the Deliverables in any judicial, regulatory or other government proceeding or disclose such information publicly in any forum, without Cobwebs' prior written consent. In addition, Customers and End Users shall refrain from referencing Cobwebs and any Cobwebs tool or technology in using the Deliverables electronically.

1.2 Product and software licenses

The Deliverables, including the licensed software and the documentation are owned by Cobwebs and/or its affiliates and/or its suppliers and are protected by patent, trade secrets, trademarks, and copyright laws and international treaty provisions. Cobwebs will grant to the End User a limited, non-transferable and non-exclusive license to the extent required to use and operate the licensed software pursuant to the Terms of this Proposal. The grant for this license is included in the proposed price.

Restrictions On Use: Neither the Customer nor the End Users shall, without Cobwebs' prior written permission (i) use or permit the use of the licensed software and/or the documentation for any purpose or use other than the operation of the product supplied by Cobwebs in accordance with its intended use; (ii) transfer, export, resell, ship or divert the licensed software and/or the documentation to any third party; (iii) reverse engineer, disassemble, or decompile the licensed software in any form or by any means or modify the licensed software or (iv) copy the licensed software and/or the documentation.

All products are provided with a 90-day temporary license. A perpetual license key shall be provided to the End User upon completion of payments, and subject to compliance with the Terms of this proposal.



1.3 Taxes

The prices in this Proposal do not include any customs, duties, value added tax or any other assessments which may be levied by the relevant authorities. Any such amounts, whether withheld at source or otherwise, will be paid by the Customer/End Users. In order to avoid any doubt, in the event that taxes are withheld, then such withholding taxes shall be added to the payment due Cobwebs, and the Proposal price shall be grossed up to include such taxes.

1.4 Limitation of liability

COBWEBS makes, and Customer and End User receive, no warranties or conditions of any kind, express, implied or statutory, related to or arising in any way out of this Agreement, the Services and Deliverables provided pursuant to it. COBWEBS specifically disclaims any implied warranty of merchantability, fitness for a particular purpose and non-infringement of any third party rights. In no event shall COBWEBS be liable for indirect, consequential or incidental damages (including damages for loss of profits, revenue, data or use) arising out of this Agreement or incurred by any Customer or End User, whether in an action in contract or tort, even if COBWEBS has been advised of the possibility of such damages. COBWEBS maximum amount of liability for damages hereunder shall in no event exceed the amount paid by the Customer or End User directly to COBWEBS and nothing else.

1.5 Operation – product and software

Use of the Deliverables shall be in accordance with applicable laws and shall be the exclusive province and responsibility of Customer and the End Users. Cobwebs will not engage in operation or use of Deliverables on behalf of Customer or End Users. Customer and/or End Users shall indemnify Cobwebs and its suppliers for any claims made against Cobwebs and/or its suppliers in this regard. To the extent that use of certain aspects of the Deliverables, require use of an account and password, Customer and End Users are solely responsible for maintaining the confidentiality of the account and password and for restricting access to computers, and agree to accept responsibility for all activities that occur under any account or password. Customer may be liable for losses incurred by Cobwebs or others due to any unauthorized use of the Deliverables, including any software, services or account.

1.6 Permits

It should be the exclusive responsibility of the Customer to obtain any, and all, applicable permits, including but not limited to, marketing and export permits, as may be required under applicable export control law.



1.7 Data Access and Privacy Policy

Customers and End Users may choose to allow the Deliverables to automatically retrieve data from your system(s) or third-party systems, accounts or web sources or services or to call the servers of other websites or services solely at the direction of and as a convenience to Customers and End Users (individually or collectively "Third Party Sites"), on your behalf and/or you may use the Deliverables to do so, at your direction. Customer and End Users agree that all actions taken through the Deliverables are the acts of the Customer and its End Users and not Cobwebs. In order to connect the Deliverables to access or retrieve data from any third-party system, services or Third Party Sites, Customer and End Users hereby agree that such connection, access or retrieval shall be done at their sole direction and control.

Customer and End Users represent and warrant that they have all valid, relevant legal authority to carry out search activities and online access of your systems or Third-Party Sites, online accounts or other web sources, pursuant to relevant law governing their law enforcement or similar governmental role and pursuant to the relevant law governing the jurisdiction(s) in which they operate. Customer and End Users represent and warrant that they have permission, authority and rights to use the Deliverables to access Third Party Sites, online accounts or other web sources and/or to allow automatic access to such system(s), services, Third Party Sites, online accounts or other web sources and retrieve data therefrom by indicating the same within the user interface of the Deliverables. Customers and End Users represent and warrant that their use of the Deliverables will not violate any relevant terms of service, privacy policy, other agreements governing such Third-Party Sites, accounts or web sources, or any express or implied communication, request or demand from any third party. Customers and End Users represent and warrant that they have the right to access Third Party Sites, online accounts or other web sources pursuant to relevant terms of service or other agreements governing such accounts or web sources, or other valid sources of legal authority. Any action performed in the Deliverables by the Customer or End Users and/or data storage and/or any possible violation of a Third-Party Site's, online account's or other web source's policies or terms are the sole responsibility of Customer and its End Users and are acts carried out by Customer and its End Users. Cobwebs disclaims any and all liability associated with accessing and retrieving data from such system(s), services, Third Party Sites, accounts or web sources. IF AT ANY TIME CUSTOMER DOES NOT HAVE THE RIGHT AND AUTHORITY TO USE THE DELIVERABLES TO ACCESS, RETRIEVE DATA OR CONNECT TO OR TO AUTOMATICALLY ACCESS, RETRIEVE DATA OR CONNECT TO SUCH SYSTEM(S), SERVICE(S), THIRD PARTY SITES, ACCOUNTS OR WEB SOURCES, THEN CUSTOMER AND END USERS HEREBY AGREE TO IMMEDIATELY CEASE USE OF THE DELIVERABLES AND CEASE ACCESS TO SUCH RESOURCES.

Restrictions on use: Neither the Customer nor the End Users shall, without Cobwebs' written permission (i) use or permit the use of the Deliverables, including the licensed software and/or the documentation, for any purpose or use other than the operation of the product supplied by Cobwebs in accordance with its intended use; (ii) divert the Deliverables, including the licensed software and/or the documentation, to any third party; (iii) reverse engineer or decompile the licensed software in any form or by any means or modify the licensed software or (iv) copy the Deliverables, including the licensed software and/or the documentation.

The Deliverables enable effective searches of open source information from the web. As a policy, Cobwebs doesn't intentionally collect or store personal information in its databases for any usage.

Customer and End Users represent, warrant, and agree that: (a) they have obtained data lawfully, and such data does not and will not violate any applicable laws or any person or entity's rights, including such person's privacy, proprietary or intellectual property or moral rights; (b) the data is free of all viruses, Trojan horses, and other



elements that could interrupt or harm the systems or software of Cobwebs; (c) Customer and End Users are solely responsible for ensuring compliance with all privacy laws in all jurisdictions that may apply to data accessed, collected and/or stored hereunder; and (d) the data complies with the terms of these Terms. For purposes of clarity, Cobwebs takes no responsibility and assumes no liability for any data, and Customer and End Users will be solely responsible for their data and the consequences of access, collecting, storing, sharing or disclosing it hereunder. Cobwebs will not be responsible for any backup, recovery or other steps required to ensure that data is recoverable in the case of data loss. Customer and End Users are solely responsible for backing up their data on a regular basis, and taking appropriate steps to safeguard and ensure the integrity of their data.

1.8 Product and software licenses

The licensed software and the documentation are owned by Cobwebs and/or its affiliates and/or its suppliers and are protected by patent, trade secrets, trademarks, and copyright laws and International treaty provisions. Cobwebs will grant to the Customer and its End Users a limited, non-transferable and non-exclusive license to the extent required to use and operate it pursuant to the Terms of this Proposal. The grant for this license is included in the proposed price.

1.9 Indemnity

Customer and End User agree to defend, indemnify and hold harmless COBWEBS (as defined in ¶4.4) from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (a) Customer's and/or End Users' modification or misuse of and/or improper granting of access to the Deliverables; (b) Customer's or End Users' violation of any of the terms of this Agreement including without limitation, breach of any of the representations and warranties above; (c) Customer's and/or End Users' violation of or data violating any third-party right, including without limitation any right of privacy, publicity rights or intellectual property rights; (d) Customer's and/or End Users' violation of any law, rule or regulation of the United States or any other country; (e) any claim for damages that arise as a result of any of Customer's and/or End Users' data or any other data that are collected or submitted through use of the Deliverables; or (f) any other party's access and use of the Deliverables provided by Customer and/or End Users. Cobwebs will have the right to control the defense, settlement, adjustment or compromise of any such claims, actions or proceedings by using counsel selected by Cobwebs. Cobwebs will use reasonable efforts to notify Customer of any such claims, actions, or proceedings upon becoming aware of the same.

1.10 Miscellaneous

Notice and Modifications. Cobwebs may provide Customer and End Users with notices, including those regarding changes to Cobwebs terms and conditions, by email, regular mail, or postings on a service through the Deliverables. Notice will be deemed given twenty-four (24) hours after email is sent, unless Cobwebs is notified that the email



address is invalid. Alternatively, Cobwebs may give Customer legal notice by mail to a postal address, if provided by Customer. In such case, notice will be deemed given three days after the date of mailing. Notice posted on a service through the Deliverables is deemed given five (5) days following the initial posting. Cobwebs reserves the right to determine the form and means of providing notifications to Customer and End Users. Cobwebs is not responsible for any automatic filtering Customer, End Users or their network providers may apply to email notifications Cobwebs sends to the email address provided. Cobwebs may, in its sole discretion, modify or update these Terms from time to time, and so Customer and End Users should review this page periodically. Customers' or End Users' continued use of the Service after any notice of change constitutes acceptance of the new Terms. If any such revision is unacceptable to Customer or End Users, their only remedy is to cease use of Cobwebs Deliverables. If Customer or End Users do not agree to any of these terms or any future Terms, do not use or access (or continue to access) the Deliverables.

Waiver. The failure of Cobwebs to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. Any waiver of any provision of these Terms will be effective only if in writing and signed by Cobwebs.

Severability. If any provision of these Terms is held to be unlawful, void, or for any reason unenforceable, then that provision will be limited or eliminated from these Terms to the minimum extent necessary and will not affect the validity and enforceability of any remaining provisions; except that in the event of unenforceability of the Jury Trial Waiver, the entire arbitration agreement shall be unenforceable.

Assignment. These Terms and any rights and licenses granted hereunder, may not be transferred or assigned by Customer or End Users, but may be assigned by Cobwebs without restriction or any need for authorization from Customer.

Survival. Upon termination of these Terms, any provision which, by its nature or express terms should survive, shall survive such termination or expiration.

Headings. The heading references herein are for convenience only, do not constitute a part of these Terms, and will not be deemed to limit or affect any of the provisions hereof.

Entire Agreement. This, including the agreements incorporated by reference, constitutes the entire agreement between you and Cobwebs relating to the subject matter herein and will not be modified except in writing, signed by both parties, or by a change made by Cobwebs as set forth in these Terms.

1.11 Governing Law; Venue; Waiver of Jury Trial

This Agreement and any dispute of any sort that might arise between the Parties shall be governed by the laws of the State of New York without regard to choice of law principles. The federal and state courts located in City, County and State of New York shall have the sole and exclusive jurisdiction over any disputes arising under the terms of this Agreement. The Parties hereby expressly consent to such exclusive jurisdiction and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. Each Party waives the right to trial by jury in any action arising out of or relating to this Agreement.



COBWAME-01

PARASHULADWA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/26/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # CA#0658748

AHT Insurance
600 University Street #1200
Seattle, WA 98101

CONTACT EXPRESS

PHONE (A/C, No, Ext): (833) 287-9378

FAX (A/C, No):

E-MAIL ADDRESS: express@ahtins.com

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: Citizens Insurance Company of America

31534

INSURER B:

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED

COBWEBS AMERICA INC
1441 Broadway
New York, NY 10018

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	OB2D907786	5/1/2021	5/1/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PROP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/>		OB2D907786	5/1/2021	5/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTIONS \$ 0		OB2D907786	5/1/2021	5/1/2022	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N N/A If yes, describe under DESCRIPTION OF OPERATIONS below					PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

West Virginia Fusion Center is included as Additional Insured under General Liability as per written contract and subject to the provisions of the policy.

CERTIFICATE HOLDER

West Virginia Fusion Center
4th Floor South Wing
1700 Maccorkle Ave Se
Charleston, WV 25314

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/29/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Howden Insurance Brokers Ltd.	CONTACT NAME: Mriti Frishman
	PHONE (A/C No. Ext): 97237955177 FAX (A/C No.):
	E-MAIL: MritiF@howden.co.il
	INSURER(S) AFFORDING COVERAGE
	INSURER A: Globe Underwriting Ltd
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY						EACH OCCURRENCE \$
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>						MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
							GENERAL AGGREGATE \$
							PRODUCTS - COMP/OP AGG \$
	GENL AGGREGATE LIMIT APPLIES PER:						\$
	POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/>						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO						BODILY INJURY (Per person) \$
	ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
							\$
	DED <input type="checkbox"/> RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/EMBER EXCLUDED? (Mandatory in NY)						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
	Cyber Liability			CYB000087-001	04.21.2021	04.20.2022	Aggregate Policy Limit of Liability: USD 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER	CANCELLATION
West Virginia Fusion Center 4th Floor South Wing 1700 MacCorkle Ave Se Charleston, WV 25314	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

© 1988-2010 ACORD CORPORATION. All rights reserved.

Item 5. Insuring Clauses and Limits of Liability Purchased:

First Party Liability coverages	Limit/Sublimit
a) Breach Expenses	USD 1,000,000
b) Business Interruption Losses	USD 1,000,000
c) Dependent Business Interruption Losses	USD 1,000,000
d) Cyber Theft Loss	USD 250,000
e) Data Recovery Expenses	USD 1,000,000
f) Extortion Monies and Expenses	USD 1,000,000
Third Party Liability coverages	Limit/Sublimit
g) Damages and Defence Costs	USD 1,000,000
h) Regulatory Fines and Penalties	USD 1,000,000
i) PCI Fines, Penalties and Assessments	USD 1,000,000
j) Media Event Damages and defence costs	USD 1,000,000

Item 6.	Policy Deductible:	USD 10,000.00
Item 7.	Business Interruption Waiting Period (hours):	10
Item 8.	Retroactive Date:	Full prior acts
Item 9.	Choice of Law:	Israeli
Item 10.	Claims or Potential Claims Notification:	24/7 Breach Hotline: +1 844 502 9237 Email: cyber@clplc.com Post: Globe Cyber Claims Marlow House 1A Lloyd's Avenue London EC3N 3AA UK
Item 11.	Insurers:	100% Lloyd's Underwriters