West Virginia Purchasing Division

2019 Washington Street, East
Charleston, WV 25305
Telephone: 304-558-2306
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Bid Fax: 304-558-3970

The following documentation is an electronically-submitted vendor response to an advertised solicitation from the *West Virginia Purchasing Bulletin* within the Vendor Self-Service portal at *wvOASIS.gov*. As part of the State of West Virginia's procurement process, and to maintain the transparency of the bid-opening process, this documentation submitted online is publicly posted by the West Virginia Purchasing Division at *WVPurchasing.gov* with any other vendor responses to this solicitation submitted to the Purchasing Division in hard copy format.

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Welcome, Lu Anne Cottrill | Procurement | Budgeting | Accounts Receivable | Accounts Payable

Solicitation Response(SR) | **Dept:** 1400 | **ID:** ESR02141900000003736 | **Ver.:** 1 | **Function:** New | **Phase:** Final | ▼ | Modified by batch , 02/22/2019

Header 9

List View

| General Information | Contact | Default Values | Discount | Document Information |

Procurement Folder: 539202

Procurement Type: Central Purchase Order

Vendor ID: 000000233060 ⬆

Legal Name: HEALTHSPACE USA INC

Alias/DBA:

Total Bid: $57,800.00

Response Date: 02/18/2019 📅

Response Time: 16:42

SO Doc Code: CRFQ

SO Dept: 1400

SO Doc ID: AGR1900000007

Published Date: 2/15/19

Close Date: 2/22/19

Close Time: 13:30

Status: Closed

Solicitation Description: Addendum No. 2 Produce Safety Inspection Software

Total of Header Attachments: 9

Apply Default Values to Commodity Lines | View Procurement Folder

Proc Folder : 539202

Solicitation Description : Addendum No. 2 Produce Safety Inspection Software

Proc Type : Central Purchase Order

Date issued	Solicitation Closes	Solicitation Response	Version
	2019-02-22 13:30:00	SR 1400 ESR02141900000003736	1

VENDOR

000000233060

HEALTHSPACE USA INC

Solicitation Number: CRFQ   1400   AGR1900000007

Total Bid : $57,800.00   **Response Date:**   2019-02-18   **Response Time:**   16:42:30

Comments: Over the last 21 years HealthSpace has successfully developed web-based applications for large and small organizations that enable the collection of fiscal information, inspection data and approval processes to facilitate the automation of permits, fee collection and regulatory management. HealthSpace services approximately 300 separate jurisdictions.

FOR INFORMATION CONTACT THE BUYER

Melissa Pettrey

(304) 558-0094
melissa.k.pettrey@wv.gov

Signature on File   **FEIN #**   **DATE**

All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	Produce Safety Inspection Software	1.00000	EA	$27,600.000000	$27,600.00

Comm Code	Manufacturer	Specification	Model #	
43230000				

Extended Description :	Produce Safety Inspection Software

Comments: Web-based inspection software including a Window based inspection app for recording inspections in the field requiring no internet connection.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	Installation of Produce Safety Inspection Software	1.00000	EA	$25,400.000000	$25,400.00

Comm Code	Manufacturer	Specification	Model #	
43230000				

Extended Description :	Installation of Produce Safety Inspection Software

Comments: Complete service to assess department needs, configure the software and test before go live. Additional services to support software for 90 days after go live.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	Training for Produce Safety Inspection Software	1.00000	EA	$4,800.000000	$4,800.00

Comm Code	Manufacturer	Specification	Model #	
43230000				

Extended Description :	Training for Produce Safety Inspection Software

Comments: Includes onsite training and documentation.

Software Description

The inspection software called HealthSpace CS is a web based solution. It comes with a browser based interface as well as supplementing API's that allows for the rapid deployment of enterprise level solutions to government, particularly those in the Environmental Health industry. The system implements a modern web design using HTML5, CSS3 and JavaScript in order to deliver an easy to use interface. This is overlaid atop a relational database using Microsoft SQL Server ©, using Java™ as the underlying engine to drive data securely from the database into a usable format for the front-end. The front-end can be either a web browser for direct client interaction, or an API for external use by a department for consuming their own data. The software includes a Windows based inspection app that uses the native features of the tablet. Inspection data is recorded on site either connected or disconnected from the internet and then pushed into the system when a connection is present. Inspectors can upload relevant facilities complete with historical data and conduct an inspection using the designated violation code of choice. The app has completely configurable observations; camera; video; and telestrator to highlight specific features in a picture. Pictures and videos can be inserted automatically into an inspection report.

Installation of Produce Safety Inspection Software

The HealthSpace Project Team assigned to this project will be the driving force behind the development and implementation of the proposed system. In the project plan, staff roles and task responsibilities are laid out for each main activity. Tasks are grouped under deliverables and the deliverables are grouped under phases as well as UAT requirements. Department management and staff commitment to the project will coalesce around weekly scheduled meetings and UAT. The Department Project Manager will have the responsibility of coordinating these sessions. The primary responsibility for task completion will fall on the HealthSpace project personnel. This is a preferred method of working with clients. HealthSpace favors rapid deployment and is cognizant the Department staff must continue to maintain regular service. Therefore, the availability of Department staff members is taken into account when work plans are drafted and modified. The HealthSpace Project Team will take responsibility to coordinate project activities with the Department's project team and insure that the proposed system will fit into the overall concept and business goals of the Department.

Training

HealthSpace will provide complete training for the Department's staff. The training will allow staff to perform all regular duties needed to run the system, databases and troubleshoot simple common problems. The training will include operation of the system but not the operation of other operating systems or hardware.

HealthSpace offers a blended learning approach to training users of the application.

With consideration given to the roles and responsibilities of each learner, training scenarios are created that combine traditional classroom training with tasks and interaction on-line. Below is a summary of the types of training that will be offered.

Inspector

Basics, Facility, Inspection, Approval, Permitting module

Classroom time - 1 day

Online courses - 3 hours

Online time with tutor - additional personalized training in specific courses based on the needs of the learners each course 15 - 30 minutes

Admin Support/Clerical

Basic, Correspondence and Print forms, data entry, module navigation, and utilization functions.

Classroom time 1 day

Online courses - 3-6 hours

Online time with tutor - additional personalized training in specific courses based on the needs of the learners each course 15 - 30 minutes

System Administrator

Basic, Primary Admin Role and Responsibilities, Correspondence and Print forms

Classroom time 1 days

Online course: 3 – 6 hours

Online time with tutor - additional personalized training in specific courses based on the needs of the learners each course 15 - 30 minutes

Department staff will work with the HealthSpace training team to determine the level of training required by various learner groups as listed in the table and to encourage the end-users to complete required on-line assignments. HealthSpace is responsible to implement the complete training plan. HealthSpace provides the trainers and training resources for classroom and online courses.

On-line learning is made accessible from within the live application through the HealthSpace user's guide allowing staff to review in a just-in-time learning environment as well as to learn any updates to the system.

Though HealthSpace has worked with clients to provide a train-the-trainer learning environment, the Company has found that it is not cost efficient to the client as there are no additional costs incurred when using HealthSpace trainers.

HealthSpace provides documentation in a variety of methods for the benefit of the end-user:

- On-line User guide, accessible from the database

- E-learning courses in all module areas

- Printable manuals.

User and Technical and Product Manuals

HealthSpace provides digital and hard copies of client-specific User Guides after the system has been fully configured. Electronic custom user guides, specific to the deployed system, will be provided after the system has been configured. Training documentation is customized to correspond to the system configuration and is available from directly within the system. Department staff will be able to open the training document in the system or download it for printing. The training manual will cover all aspects of the system and will be available to all system users.

In addition to the system manuals, HealthSpace can provide online training videos. The online training courses consist of a set of videos that are accessible through the help section of the HealthSpace system. Once the system is finalized, HealthSpace will create videos specific to the individual system, which ensures that users are comfortable with the exact system the minute they log in, rather than being bombarded with information not relevant to them. The videos will cover the different areas of the system, including permits, inspections, data entry, financial, managers/supervisors, and system administration.

The user's manuals are updated in the event of major system changes requested by the client in order to accommodate changing business rules. The system manual will be maintained with each system upgrade and will be available within the system in a compressed, searchable PDF format.

Any required technical or system documentation will be provided during the implementation. In addition to the user's guide and help documentation described above, HealthSpace will also provide a Technical Specifications Document (TSD). The TSD will include a data model, map of the data model to the physical model, Entity Relational Diagrams to the physical model, data dictionary, and a definition of tables.

HealthSpace CS Pro INSPECTION MANAGEMENT SOFTWARE APPLICATION LICENSING AND SERVICE AGREEMENT

Between

Agricultural Department of Administrative Services

1900 Kanawha BLVD E.
Charleston, WV 25305-0173

And

HealthSpace USA Inc.

114 W. Magnolia Street, Suite 400
Bellingham, WA 98225
Telephone: **(866) 860-4224 ext. 2000**
Fax: **(604) 860-4225**
Web: **www. HealthSpace.com**
Contact: **Joseph Willmott**
jwillmott@HealthSpace.com

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ENVIRONMENTAL HEALTH SOFTWARE LICENSING AND SERVICE AGREEMENT

THIS AGREEMENT, is made and entered into this _____ day of _____ 201_ by and between _____(the "**Department**") located at _____ and HealthSpace USA Inc. ("**HealthSpace**"), an independent contractor with its corporate office located at 114 W. Magnolia Street, Suite 400, Bellingham, WA 98225**.**

       WHEREAS, the Department desires to purchase an Internet Web Based Inspection application software user licenses designed by HealthSpace known at HSCloud Suite and the inspection application known as HSTouch to be used with Windows tablet, and services including data hosting and support/maintenance services from HealthSpace.

       NOW THEREFORE, the parties hereto, each in consideration of mutual promises and obligations assumed herein by the other, agree as follows:

1. **Definitions**

    a) **"Application"** means a web based application and an inspection application that is developed for the Windows operating systems that uses the nature features on tablets using the operating system.

    b) "**Confidential Information**" means any and all data or information that is known or used by a party that is not generally available to the public or that, by its nature or the nature of its disclosure, ought reasonably be known to be the confidential or proprietary information of such party, and includes, but is not limited to, business information, specifications, research, software, trade secrets, know-how, designs, drawings, data, computer programs, customer names and other technical, financial and business information concerning a party, or any such information of clients or customers of a party, which is disclosed by or on behalf of such party to the other party. For greater clarity, the Department's Confidential Information will include the Data, but not the Public Data, and HealthSpace's Confidential Information will include the terms of this Agreement, including all pricing and fees.

    c) "**Custom Development**" means alterations to the Standard Application requested by the Department to meet specific needs that cannot be achieved in the configurable settings. Any Custom Development will be conducted at agreed rates, as an addendum to this Agreement.

    d) "**Data**" means any and all information, processes, documentation, marks and other intellectual property owned or produced by the Department that is not Public Data.

    e) "**Decommissioning**" means the process of transitioning the Department away from using the HealthSpace Software following termination or expiration of this Agreement, as more particularly set out in section 10.

    f) "**Servers**" means servers operated and maintained by HealthSpace or the Department on which Data may be stored and accessible by the Department.

    g) **"HSCloud**" means a fully hosted cloud based solution with a browser based interface as well as supplementing API's that allows for deployment of enterprise level solutions to government, particularly those in the Environmental Health industry.

    h) "**HSTouch**" means the Windows Application that interfaces with HSCloud providing a data collection and reporting function for field staff working either connected or disconnected from the internet with the base engine and logical mechanisms written in the native languages appropriate for the OS.

    i) "**Module Mapping**" means setting up HS Touch to record the required inspection data

required by the department for each contracted inspection program.

j) "**SOW**" means the statement of work attached as Appendix "A".

k) **"State"** means the government of the State of West Virginia and its representative department.

l) **"Standard Application"** means application functionality that is available out-of-the box including the configurability options in the system.

m) **"System"** means HSCloud, and HSTouch Inspection Application

n) **"UAT"** means user acceptance testing.

o) "**User**" is defined as anyone who is given access to HS Touch by an authorized license, whether or not employed by the Department.

2. **Scope of Service**

a) HealthSpace will provide the HealthSpace Software as set out in Appendix "A".

b) HealthSpace will provide the services as set out in Appendix "A".

3. **License to Use Software**

a) Subject to the terms and conditions specified in this Agreement, HealthSpace grants the Department and its successors a perpetual license (the "**License**") to use the EHS or other HealthSpace Software as indicated in the SOW for the duration of this Agreement, subject to the Department paying the License Fee.

b) The License Fee is calculated on the basis of the number of Users set out in the SOW, and the Department agrees that, for any increase in the number of Users, the Department will give HealthSpace notice of such increase. If such increase is accepted by HealthSpace, the SOW will be amended to reflect the current number of Users and the difference between the License Fee payable under this Agreement and that under the amended SOW will become immediately due and payable to HealthSpace

c) HealthSpace will provide sufficient software licenses and upgrades of the Supporting Software required for the number of Users, as may be amended under paragraph 3.b), using the HealthSpace Software, subject to payment for such software licenses and upgrades by the Department.

d) The Department is responsible for and agrees to abide by all the provisions of applicable license agreements for Supporting Software and will ensure that the Department staff complies with the license agreements.

e) The Department may add additional Users, provided that it pays the License Fee and any other associated software license fees for such additional Users.

f) The Department acknowledges and agrees its license to, and accordingly its use of, the HealthSpace Software is at all times subject to the following limitations:

i) *No Modification or Reverse Engineering*—The Department will not directly or indirectly modify, or in any way alter (excluding configuration expressly permitted by the Documentation) the whole or any part of the HealthSpace Software, nor will the Department translate, decompile, disassemble, reconstruct, decrypt, or reverse engineer the whole or any part of the HealthSpace Software.

ii) *No Rental or Timeshare Use*—Except as permitted herein, the Department will not directly or indirectly license, sublicense, sell, resell, transfer, assign, distribute, rent, lease, or otherwise commercially exploit the HealthSpace Software in any way, nor will the Department use of the HealthSpace Software in a computer service business, service bureau, hosting or timesharing arrangement.

iii) *Unauthorized Equipment*—The Department will only use the HealthSpace Software

on computing devices which are supplied by HealthSpace or which meet certain the minimum system requirements as provided by HealthSpace from time to time.

iv) *Proprietary Notices*—The Department will not directly or indirectly remove any proprietary notices, labels or marks from the HealthSpace Software or other materials, including those indicating any intellectual property rights of HealthSpace or any third party unless otherwise agreed between the parties in writing.

4. **Ownership of Software and Data**

a) HealthSpace warrants to the Department that HealthSpace is the developer and owner of HS Touch application and the HS Cloud system and has full rights to the HealthSpace Software and has the right to distribute to the Department required licenses to operate the HealthSpace Software.

b) In the event of any suit or claim against the Department by any third party for damages and/or injunctive relief contesting ownership of the HealthSpace Software and/or the Department's rights under this Agreement, HealthSpace agrees to, at its own expense, defend the Department against such suit or claim and to hold the Department harmless from expenses of such defense and from any court-awarded judgments resulting from such suit or claim.

c) Further, if such suit or claim occurs or is likely to occur, HealthSpace will, at its own expense, either procure for the Department the right to continue using the HealthSpace Software or replace the same with a non-infringing product, substantially conforming to that described herein, or modify the same so that it will be non-infringing, provided that this Agreement has not been terminated.

d) For greater clarity, the provisions of section 4.b) will not apply to the extent that any such claim relates to the Department's combination of the HealthSpace Software with computing devices, systems or other software not approved by HealthSpace or otherwise contemplated hereunder, or in the event of the Department's refusal to install any update or replacement provided pursuant to section 4.c).

e) All Data and Public Data, whether entered into or stored in the system by the Department or by HealthSpace on behalf of the Department, is and will remain the sole property of the Department. The Department hereby grants HealthSpace the irrevocable, royalty-free license during the term of this Agreement to use, copy and otherwise exploit the Data and the Public Data to operate the HealthSpace Software and perform the services provided in this Agreement, including to extract, derive, compile and publish the Public Data, and for any other purpose permitted hereunder. The Department acknowledges that whether the HealthSpace Software uses HealthSpace Servers or third party servers, the Supporting Software will transmit Data to HealthSpace Servers for the purpose of performing functions on the Data required by this Agreement and also to collect the Public Data, which Public Data may be further used, published or distributed by HealthSpace.

5. **Obligations of the Department**

a) The Department will designate staff members to provide the following functions under this Agreement:

b) Department Administrator: This individual is responsible for Administrator functions within the system, for the department.

c) The Department agrees to designate a replacement Administrator within thirty (30) days if the primary is unable to serve in that capacity or leaves the organization.

d) All newly designated Administrator's must receive HealthSpace designed and delivered training which will be done electronically through web-based training and documentation.

e) The Department will provide access to HealthSpace's online learning material for all Users using HS Touch.

f) If the Department supplies the computing devices to operate the Supporting Software, the Department is responsible, with support from HealthSpace, to install the HS Touch Application on the Department computing devices. If HealthSpace supplies the necessary computing devices, HealthSpace will be pre-install and configure the Supporting Software on such devices.

g) The Department will pay the fees set out in the SOW, on the terms and conditions provided therein.

6. **Term**

a) The term of this Agreement will be as set out in the SOW.

b) HealthSpace will provide written 60 days notice prior to the expiration of this agreement. This agreement will automatically renew under the same terms and conditions for one year at the expiration of the initial and each subsequent term unless:

    i) the Department and HealthSpace enter into a new written agreement which replaces this Agreement, or;

    ii) the Department provides a Notice of Termination, as prescribed herein, to HealthSpace of its intent to terminate this Agreement and its use of the HealthSpace Software.

7. **Software System Upgrades and Changes**

a) The License Fee includes all subsequent core system upgrades and changes instituted by HealthSpace after deployment. It does not include any Custom Development, such as design changes to modules deployed for the Department that are outside the normal configuration options of the HealthSpace Software.

b) HealthSpace will use commercially reasonable efforts to minimize any changes to minimum system requirements for the HealthSpace Software resulting from system upgrades and changes.

8. **Intellectual Property**

a) The HealthSpace Software will, at all times, remain the property of HealthSpace, subject only to the license of use granted herein, specifically excluding any right of reproduction, sale, lease, sub-license or any other transfer or disposition of the HealthSpace Software, or any portion thereof, by the Department except as follows:

    i) upon the transfer, or merger, of substantially all of the assets of the Department to a successor organization, this Agreement and the rights and obligations of the Department herein may be assigned to such successor; or

b) The Department grants HealthSpace a non-exclusive, perpetual and royalty-free license to use all innovations, suggestions, and feedback ("**Feedback**") regarding the HealthSpace Software suggested by the Department staff, provided that the Feedback pertains to the operation or design of the HealthSpace Software, or of possible future extensions of the HealthSpace Software, and is either presented in an area not private to the Department or is sent directly to HealthSpace. Such Feedback is given to HealthSpace on an "as is" basis and the Department does not provide any warranty regarding the Feedback.

9. **Termination**

a) The Department may terminate this Agreement upon providing ninety (90) days' notice to HealthSpace. The document will be titled "**Notice of Termination**". At the end of the 90-day notice period the Department will comply with the provisions set out in section 10 for Decommissioning.

b) Should either party default in the performance of any obligation under this Agreement or breach any provision contained in the Agreement and not correct or substantially cure the default or breach within thirty (30) days after receipt of written notice by the other party of

such default or breach, then in addition to any other remedies set forth herein, or available in law or in equity, this Agreement may be terminated by the non-defaulting/non-breaching party, following which the Department will comply with the provisions set out in section 10 for Decommissioning.

c) In the event either party ceases its business operations, makes a general assignment for the benefit of creditors, is adjudged bankrupt, or becomes insolvent, then the other party may, at its sole discretion, terminate the Agreement upon thirty (30) days' notice to the other party and the provisions set out in section 10 for Decommissioning will not apply.

10. Decommissioning

a) Upon termination of this Agreement, or its expiration without replacement, the Department will immediately cease using the System.

11. Confidentiality

a) Each party agrees to protect the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind but in no case less than reasonable care, and will not use the Confidential Information of the other party, except in connection with the performance of its obligations under this Agreement or as permitted by this Agreement. The confidentiality provisions set forth in this Agreement will remain in full force and effect in perpetuity.

b) Without limiting the foregoing, HealthSpace will (a) ensure that all copies of the Data will be secured behind a professionally configured firewall, (b) use database systems with adequate and reliable security and will make regular security checks on these systems, and (c) HealthSpace will supply the system administrator with copies of the results of such checks upon request. The Department agrees that it will treat these results as HealthSpace's Confidential Information.

c) Upon termination of this Agreement or upon the written instruction of the party owning Confidential Information, the other party will return or destroy the requesting party's Confidential Information. For this Agreement, a party will be deemed to have destroyed electronic Confidential Information when it executes an application- or operating system-level, commercially reasonable delete function on it, provided that thereafter it does not conduct or permit any recovery or restoration of same.

d) Each party will be responsible to the other for any disclosure of Confidential Information that is not permitted by this Agreement to the extent caused by such party and for any failure by such party to comply with the terms hereof. Each party will defend, indemnify and hold harmless the other, from and against any and all claims arising out of any breach by it of this section 11.d).

e) The obligations of confidentiality set out in this section 11 will not apply in respect of uses or disclosures of Confidential Information where:

i) the discloser consents in writing,

ii) disclosure is required to comply with any applicable law, judicial order or stock exchange rules, provided that the party proposing to disclose the Confidential Information gives the other party reasonable, sufficient notice as may be practicable in the circumstances to contest or protect the required disclosure, or

iii) the party proposing to use or disclose the Confidential Information can establish with documentary evidence that, other than as a result of a breach of this Agreement, the Confidential Information (A) is available in the public domain or is Public Data, (B) was disclosed to it by a third party without violating confidentiality obligations, or (C) was already known by it or was subsequently developed by it without any use of Confidential Information.

12. Protected Health Information

a) HealthSpace will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information (PHI) in accordance to the NIST 800-53 Security Guide should the Department require that HealthSpace, subcontractors(s) or agent(s) create, receive, maintain, or transmit PHI data on behalf of the State. This data shall be protected against unauthorized access, disclosure or modification, theft, or destruction.

b) HealthSpace will use encryption that is in accordance consistent with NIST Special Publication 800-111 Guide to Storage Encryption, including the use of standards based encryption format using triple-DES (3DES), or the Advanced Encryption Standard (AES), or their successors.

c) Backups of PHI will be encrypted in accordance to secure methods as listed in NIST Special Publication 800-111 Guide to Storage Encryption, including off-site storage in a physically secure location with secure access controls to authorized personnel. Backup schedules shall be maintained to ensure timely availability and integrity of data.

d) HealthSpace will implement technical security measures including mechanisms to encrypt and decrypt electronic protected health information (PHI) "at rest" and "during transmission" over an electronic communications network, including the internet, consistent with NIST Special Publications 800-52, 800-77 and Guidelines as appropriate to comply with Federal Information Processing Standards in the protection of PHI.

e) HealthSpace will provide reports or additional information upon request of the state and access by the State or the State's designated staff to HealthSpace's facilities and/or any location involved with providing services to the State or involved with processing or storing State data, and HealthSpace shall cooperate with State staff and audit requests submitted under this Section. Any confidential information of either party accessed or disclosed during the course of the security audit shall be treated as set forth under this Contract or federal or state law or regulations. Each party shall bear its own expenses incurred in the course of conducting this security audit. HealthSpace shall at its own expense promptly rectify any non-compliance with the Policy or other requirements identified by this security audit and provide proof to the State thereof.

13. Indemnification

a) HealthSpace agrees that it will defend, indemnify and hold the Department harmless from any liabilities, claims or demands arising out of the work performed or services provided pursuant to this Agreement from persons who are not party thereto and who claim or allege any personal injury or death or any damage to their property due to the intentional or negligent acts of HealthSpace or its officers, employees, agents or assigns, except to the extent that any such liability relates to any actions of the Department, the Users or any other employees or contractors of the Department. The Department will immediately provide notice to HealthSpace in the event of any such claim, and HealthSpace will have the right to defend and settle any such claims.

b) HealthSpace agrees to compensate the Department for any loss or damages caused directly by HealthSpace to the Department's premises or physical property, arising out of the work performed or services provided pursuant to this Agreement.

c) HealthSpace agrees to provide the Department proof of liability insurance prior to commencing work under this Agreement.

d) The Department acknowledges that the licensed software provided by HealthSpace constitutes part of an information system to be used by the Department, its staff, employees and authorized agents in the performance of their professional responsibilities and is in no way intended to replace their professional skill and judgment.

14. Notice

a) All notices will be in writing and will be sent by certified mail, return receipt requested, or

by email to the people and addresses set out below, or to such other address as either party may request by notice. All notices sent by certified mail will be effective upon the date of receipt. Notices sent by email will be immediately effective on the date of transmission if sent during regular business hours, or on the next business day if sent outside of regular business hours.

To the Company:

HealthSpace USA Inc.
114 W. Magnolia Street, Suite 400
Bellingham, WA 98225
Telephone: 1 (866) 860-4224 Ext. 2000
Web: www.healthspace.com
Contact: Joseph Willmott
jwillmott@healthspace.com

To the Department:

As set out in Schedule "A".

b) If normal mail service or email are interrupted by strike, slow down, Force Majeure or other cause, then a notice sent by the impaired means of communication will not be deemed to be received until actually received, and the parties sending the notice will use any other such services which have not been so interrupted or will deliver such notice in order to ensure prompt receipt thereof.

15. Force Majeure

a) Neither party is liable for any delay, interruption or failure in the performance of its obligations if caused by acts of God, war, declared or undeclared, fire, flood, storm, slide, earthquake, their failure, inability to obtain equipment, supplies or other facilities not caused by a failure to pay, labor disputes, or other similar event beyond the control of the party affected which may prevent or delay such performance. If any such act or event occurs or is likely to occur, the party affected will promptly notify the other, giving particulars of the event. The party so affected will use reasonable efforts to eliminate or remedy the event.

16. Information Management Responsibilities

a) HealthSpace will comply with all applicable privacy laws, rules and regulations of the jurisdiction in which the Department is located.

17. General

a) HealthSpace will not, during the term of this Agreement, perform a service or, or provide advice to any person, firm or agency, which gives rise to a conflict of interest between the obligations of HealthSpace under this Agreement, except that which is required by law.

b) This Agreement, the schedules and all attachments referenced herein will constitute the entire Agreement of the parties and will supersede all prior negotiations, proposals, and representations, whether written or oral.

c) Time will be of the essence in this Agreement.

d) This Agreement may not be modified except by subsequent agreement in writing executed by both the Department and HealthSpace.

e) It is mutually agreed by and between the parties that the relationship between the Department and HealthSpace will be that of independent contractor and no principal-agent or employer-employee relationship is created by this Agreement. The Department is interested in the results achieved and the conduct and control of the work will lie solely with HealthSpace. HealthSpace is not entitled to any of the benefits the Department provides

its employees. It is further understood that the Department does not agree to use HealthSpace exclusively. Moreover, it is understood that HealthSpace is free to contract for similar services to be performed for other parties while under contract with the Department.

f) It is mutually agreed by and between the parties that if any section, subsection, sentence, clause, phrase, or portion of this Agreement will be for any reason held invalid, unenforceable or unconstitutional by a court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portions thereof.

g) It is mutually agreed and acknowledged by and between the parties that any breach by it of this Agreement with respect to intellectual property rights to HealthSpace Software or Confidential Information may cause the other party immediate and irreparable harm for which monetary damages would not be adequate to compensate such other party, and so upon such a breach the other party may seek injunctive or other equitable relief against the breaching party from any court of competent jurisdiction without establishing the inadequacy of monetary damages, proof of actual harm or posting any bond or security.

h) This Agreement will be governed by and construed in accordance with the laws enforced from time to time in the State of Tennessee and the federal laws of the United States applicable therein, without reference to their conflicts of laws principles.

i) The captions and headings appearing in this Agreement are inserted for convenience only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

j) This Agreement will enure to the benefit of, and be binding upon, the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns. The Department may not assign or transfer any interest in this Agreement without the prior written consent of HealthSpace.

k) Whenever the singular or masculine is used herein, the same will be deemed to include the plural or the feminine of the body politic or corporate where the context of the party so requires.

l) The terms of this agreement shall be subject to the terms and conditions of the Purchase order issued by the Department for the purchase of the Application. In the event of conflict, the terms of the Purchase Order shall prevail.

 IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on the _____ day of _____, 20___.

For DEPARTMENT:

_____

Date

_____

Authorized Signatory

_____

Print Name Here

For HEALTHSPACE USA INC.:

_____

Date

_____

Joseph Willmott

<div align="center">**Appendix "A"**</div>

Statement of Work and Scope of Service:

1. **Scope of Service:**
   HealthSpace will provide the System software meeting the Department inspection functions**:**

   a) **Inspections:**
      Provided will be the base HSCloud System and includes the following core EH Tools:
      - Address
      - Establishment
      - Permit
      - Contact
      - Inspection
      - Complaint
      - User Manager
      - Permissions Manager

   b) **Configuration Tools:**
      Provided will be the Configuration Tools that provide the following functionality:
      i.   Form Builder: Form builder provides back end access to all tools/tables in the system, allowing the Admin user to add data entry fields, edit current data entry field formats, upload and hook up a printed output from any tool, modify variables of features on all tools/tables, add new tools/tables to the system, and manage the relationship between all tools and tables
      ii. Violation Library: This tool allows the client to manage all aspects of the violation data that populates the inspections for all programs used, including library of items, selection types, scoring logic, predefined comments, violation municipal code library, printed output
      iii. Program and Permit Type Manager: Which allow the full management of all programs and their individual permit/license types
      iv. Navigation Categories and Pages: Allows the management of basic access points and categorization of tools within the system

   c) **Detailed User Manual:**
      Provided will be a thorough user manual that covers all features of the system, including the configuration tools.

2. **Support and Maintenance:**
   Any issues or needs with ongoing use of the system can be handled by using the HSCloud Support Feature. Full instructions on usage will be provided by product support staff. During usage any bugs encountered will be fixed within three business days. Any change or additional functionality requests will be reviewed and assessed, and if approved, a quote for the work will be provided.

3. **Term:**
   The term of this Agreement will commence _____and run until _____**.**

4. Notice:

Notices for the Department must be sent to:

Organization Name		
Attention	**Title**	
Address		
City	**State**	**Zip Code**
Telephone	**Email Address**	

Software Description

The inspection software called HealthSpace CS is a web based solution. It comes with a browser based interface as well as supplementing API's that allows for the rapid deployment of enterprise level solutions to government, particularly those in the Environmental Health industry. The system implements a modern web design using HTML5, CSS3 and JavaScript in order to deliver an easy to use interface. This is overlaid atop a relational database using Microsoft SQL Server ©, using Java™ as the underlying engine to drive data securely from the database into a usable format for the front-end. The front-end can be either a web browser for direct client interaction, or an API for external use by a department for consuming their own data. The software includes a Windows based inspection app that uses the native features of the tablet. Inspection data is recorded on site either connected or disconnected from the internet and then pushed into the system when a connection is present. Inspectors can upload relevant facilities complete with historical data and conduct an inspection using the designated violation code of choice. The app has completely configurable observations; camera; video; and telestrator to highlight specific features in a picture. Pictures and videos can be inserted automatically into an inspection report.

Installation of Produce Safety Inspection Software

The HealthSpace Project Team assigned to this project will be the driving force behind the development and implementation of the proposed system. In the project plan, staff roles and task responsibilities are laid out for each main activity. Tasks are grouped under deliverables and the deliverables are grouped under phases as well as UAT requirements. Department management and staff commitment to the project will coalesce around weekly scheduled meetings and UAT. The Department Project Manager will have the responsibility of coordinating these sessions. The primary responsibility for task completion will fall on the HealthSpace project personnel. This is a preferred method of working with clients. HealthSpace favors rapid deployment and is cognizant the Department staff must continue to maintain regular service. Therefore, the availability of Department staff members is taken into account when work plans are drafted and modified. The HealthSpace Project Team will take responsibility to coordinate project activities with the Department's project team and insure that the proposed system will fit into the overall concept and business goals of the Department.

Training

HealthSpace will provide complete training for the Department's staff. The training will allow staff to perform all regular duties needed to run the system, databases and troubleshoot simple common problems. The training will include operation of the system but not the operation of other operating systems or hardware.

HealthSpace offers a blended learning approach to training users of the application.

With consideration given to the roles and responsibilities of each learner, training scenarios are created that combine traditional classroom training with tasks and interaction on-line. Below is a summary of the types of training that will be offered.

Inspector

Basics, Facility, Inspection, Approval, Permitting module

Classroom time - 1 day

Online courses - 3 hours

Online time with tutor - additional personalized training in specific courses based on the needs of the learners each course 15 - 30 minutes

Admin Support/Clerical

Basic, Correspondence and Print forms, data entry, module navigation, and utilization functions.

Classroom time 1 day

Online courses - 3-6 hours

Online time with tutor - additional personalized training in specific courses based on the needs of the learners each course 15 - 30 minutes

System Administrator

Basic, Primary Admin Role and Responsibilities, Correspondence and Print forms

Classroom time 1 days

Online course: 3 – 6 hours

Online time with tutor - additional personalized training in specific courses based on the needs of the learners each course 15 - 30 minutes

Department staff will work with the HealthSpace training team to determine the level of training required by various learner groups as listed in the table and to encourage the end-users to complete required on-line assignments. HealthSpace is responsible to implement the complete training plan. HealthSpace provides the trainers and training resources for classroom and online courses.

On-line learning is made accessible from within the live application through the HealthSpace user's guide allowing staff to review in a just-in-time learning environment as well as to learn any updates to the system.

Though HealthSpace has worked with clients to provide a train-the-trainer learning environment, the Company has found that it is not cost efficient to the client as there are no additional costs incurred when using HealthSpace trainers.

HealthSpace provides documentation in a variety of methods for the benefit of the end-user:

- On-line User guide, accessible from the database

- E-learning courses in all module areas

- Printable manuals.

User and Technical and Product Manuals

HealthSpace provides digital and hard copies of client-specific User Guides after the system has been fully configured. Electronic custom user guides, specific to the deployed system, will be provided after the system has been configured. Training documentation is customized to correspond to the system configuration and is available from directly within the system. Department staff will be able to open the training document in the system or download it for printing. The training manual will cover all aspects of the system and will be available to all system users.

In addition to the system manuals, HealthSpace can provide online training videos. The online training courses consist of a set of videos that are accessible through the help section of the HealthSpace system. Once the system is finalized, HealthSpace will create videos specific to the individual system, which ensures that users are comfortable with the exact system the minute they log in, rather than being bombarded with information not relevant to them. The videos will cover the different areas of the system, including permits, inspections, data entry, financial, managers/supervisors, and system administration.

The user's manuals are updated in the event of major system changes requested by the client in order to accommodate changing business rules. The system manual will be maintained with each system upgrade and will be available within the system in a compressed, searchable PDF format.

Any required technical or system documentation will be provided during the implementation. In addition to the user's guide and help documentation described above, HealthSpace will also provide a Technical Specifications Document (TSD). The TSD will include a data model, map of the data model to the physical model, Entity Relational Diagrams to the physical model, data dictionary, and a definition of tables.

HealthSpace CS Pro
INSPECTION MANAGEMENT
SOFTWARE APPLICATION
LICENSING AND SERVICE
AGREEMENT

Between

Agricultural Department of
Administrative Services

1900 Kanawha BLVD E.
Charleston, WV 25305-0173

And

HealthSpace USA Inc.

114 W. Magnolia Street, Suite 400
Bellingham, WA 98225
Telephone: (866) 860-4224 ext. 2000
Fax: (604) 860-4225
Web: www. HealthSpace.com
Contact: Joseph Willmott
jwillmott@HealthSpace.com

Table of Contents

ENVIRONMENTAL HEALTH SOFTWARE LICENSING AND SERVICE AGREEMENT

THIS AGREEMENT, is made and entered into this _____ day of _____ 201_ by and between _____(the "**Department**") located at _____ and HealthSpace USA Inc. ("**HealthSpace**"), an independent contractor with its corporate office located at 114 W. Magnolia Street, Suite 400, Bellingham, WA 98225**.**

WHEREAS, the Department desires to purchase an Internet Web Based Inspection application software user licenses designed by HealthSpace known at HSCloud Suite and the inspection application known as HSTouch to be used with Windows tablet, and services including data hosting and support/maintenance services from HealthSpace.

NOW THEREFORE, the parties hereto, each in consideration of mutual promises and obligations assumed herein by the other, agree as follows:

1. **Definitions**

   a) **"Application"** means a web based application and an inspection application that is developed for the Windows operating systems that uses the nature features on tablets using the operating system.

   b) "**Confidential Information**" means any and all data or information that is known or used by a party that is not generally available to the public or that, by its nature or the nature of its disclosure, ought reasonably be known to be the confidential or proprietary information of such party, and includes, but is not limited to, business information, specifications, research, software, trade secrets, know-how, designs, drawings, data, computer programs, customer names and other technical, financial and business information concerning a party, or any such information of clients or customers of a party, which is disclosed by or on behalf of such party to the other party. For greater clarity, the Department's Confidential Information will include the Data, but not the Public Data, and HealthSpace's Confidential Information will include the terms of this Agreement, including all pricing and fees.

   c) "**Custom Development**" means alterations to the Standard Application requested by the Department to meet specific needs that cannot be achieved in the configurable settings. Any Custom Development will be conducted at agreed rates, as an addendum to this Agreement.

   d) "**Data**" means any and all information, processes, documentation, marks and other intellectual property owned or produced by the Department that is not Public Data.

   e) "**Decommissioning**" means the process of transitioning the Department away from using the HealthSpace Software following termination or expiration of this Agreement, as more particularly set out in section 10.

   f) "**Servers**" means servers operated and maintained by HealthSpace or the Department on which Data may be stored and accessible by the Department.

   g) **"HSCloud**" means a fully hosted cloud based solution with a browser based interface as well as supplementing API's that allows for deployment of enterprise level solutions to government, particularly those in the Environmental Health industry.

   h) "**HSTouch**" means the Windows Application that interfaces with HSCloud providing a data collection and reporting function for field staff working either connected or disconnected from the internet with the base engine and logical mechanisms written in the native languages appropriate for the OS.

   i) "**Module Mapping**" means setting up HS Touch to record the required inspection data

required by the department for each contracted inspection program.

j) "**SOW**" means the statement of work attached as Appendix "A".

k) **"State"** means the government of the State of West Virginia and its representative department.

l) **"Standard Application"** means application functionality that is available out-of-the box including the configurability options in the system.

m) **"System"** means HSCloud, and HSTouch Inspection Application

n) **"UAT"** means user acceptance testing.

o) "**User**" is defined as anyone who is given access to HS Touch by an authorized license, whether or not employed by the Department.

2. **Scope of Service**

a) HealthSpace will provide the HealthSpace Software as set out in Appendix "A".

b) HealthSpace will provide the services as set out in Appendix "A".

3. **License to Use Software**

a) Subject to the terms and conditions specified in this Agreement, HealthSpace grants the Department and its successors a perpetual license (the "**License**") to use the EHS or other HealthSpace Software as indicated in the SOW for the duration of this Agreement, subject to the Department paying the License Fee.

b) The License Fee is calculated on the basis of the number of Users set out in the SOW, and the Department agrees that, for any increase in the number of Users, the Department will give HealthSpace notice of such increase. If such increase is accepted by HealthSpace, the SOW will be amended to reflect the current number of Users and the difference between the License Fee payable under this Agreement and that under the amended SOW will become immediately due and payable to HealthSpace

c) HealthSpace will provide sufficient software licenses and upgrades of the Supporting Software required for the number of Users, as may be amended under paragraph 3.b), using the HealthSpace Software, subject to payment for such software licenses and upgrades by the Department.

d) The Department is responsible for and agrees to abide by all the provisions of applicable license agreements for Supporting Software and will ensure that the Department staff complies with the license agreements.

e) The Department may add additional Users, provided that it pays the License Fee and any other associated software license fees for such additional Users.

f) The Department acknowledges and agrees its license to, and accordingly its use of, the HealthSpace Software is at all times subject to the following limitations:

   i) *No Modification or Reverse Engineering*—The Department will not directly or indirectly modify, or in any way alter (excluding configuration expressly permitted by the Documentation) the whole or any part of the HealthSpace Software, nor will the Department translate, decompile, disassemble, reconstruct, decrypt, or reverse engineer the whole or any part of the HealthSpace Software.

   ii) *No Rental or Timeshare Use*—Except as permitted herein, the Department will not directly or indirectly license, sublicense, sell, resell, transfer, assign, distribute, rent, lease, or otherwise commercially exploit the HealthSpace Software in any way, nor will the Department use of the HealthSpace Software in a computer service business, service bureau, hosting or timesharing arrangement.

   iii) *Unauthorized Equipment*—The Department will only use the HealthSpace Software

on computing devices which are supplied by HealthSpace or which meet certain the minimum system requirements as provided by HealthSpace from time to time.

    iv)   *Proprietary Notices*—The Department will not directly or indirectly remove any proprietary notices, labels or marks from the HealthSpace Software or other materials, including those indicating any intellectual property rights of HealthSpace or any third party unless otherwise agreed between the parties in writing.

4. Ownership of Software and Data

a) HealthSpace warrants to the Department that HealthSpace is the developer and owner of HS Touch application and the HS Cloud system and has full rights to the HealthSpace Software and has the right to distribute to the Department required licenses to operate the HealthSpace Software.

b) In the event of any suit or claim against the Department by any third party for damages and/or injunctive relief contesting ownership of the HealthSpace Software and/or the Department's rights under this Agreement, HealthSpace agrees to, at its own expense, defend the Department against such suit or claim and to hold the Department harmless from expenses of such defense and from any court-awarded judgments resulting from such suit or claim.

c) Further, if such suit or claim occurs or is likely to occur, HealthSpace will, at its own expense, either procure for the Department the right to continue using the HealthSpace Software or replace the same with a non-infringing product, substantially conforming to that described herein, or modify the same so that it will be non-infringing, provided that this Agreement has not been terminated.

d) For greater clarity, the provisions of section 4.b) will not apply to the extent that any such claim relates to the Department's combination of the HealthSpace Software with computing devices, systems or other software not approved by HealthSpace or otherwise contemplated hereunder, or in the event of the Department's refusal to install any update or replacement provided pursuant to section 4.c).

e) All Data and Public Data, whether entered into or stored in the system by the Department or by HealthSpace on behalf of the Department, is and will remain the sole property of the Department. The Department hereby grants HealthSpace the irrevocable, royalty-free license during the term of this Agreement to use, copy and otherwise exploit the Data and the Public Data to operate the HealthSpace Software and perform the services provided in this Agreement, including to extract, derive, compile and publish the Public Data, and for any other purpose permitted hereunder. The Department acknowledges that whether the HealthSpace Software uses HealthSpace Servers or third party servers, the Supporting Software will transmit Data to HealthSpace Servers for the purpose of performing functions on the Data required by this Agreement and also to collect the Public Data, which Public Data may be further used, published or distributed by HealthSpace.

5. Obligations of the Department

a) The Department will designate staff members to provide the following functions under this Agreement:

b) Department Administrator: This individual is responsible for Administrator functions within the system, for the department.

c) The Department agrees to designate a replacement Administrator within thirty (30) days if the primary is unable to serve in that capacity or leaves the organization.

d) All newly designated Administrator's must receive HealthSpace designed and delivered training which will be done electronically through web-based training and documentation.

e) The Department will provide access to HealthSpace's online learning material for all Users using HS Touch.

f) If the Department supplies the computing devices to operate the Supporting Software, the Department is responsible, with support from HealthSpace, to install the HS Touch Application on the Department computing devices. If HealthSpace supplies the necessary computing devices, HealthSpace will be pre-install and configure the Supporting Software on such devices.

g) The Department will pay the fees set out in the SOW, on the terms and conditions provided therein.

6. Term

a) The term of this Agreement will be as set out in the SOW.

b) HealthSpace will provide written 60 days notice prior to the expiration of this agreement. This agreement will automatically renew under the same terms and conditions for one year at the expiration of the initial and each subsequent term unless:

i) the Department and HealthSpace enter into a new written agreement which replaces this Agreement, or;

ii) the Department provides a Notice of Termination, as prescribed herein, to HealthSpace of its intent to terminate this Agreement and its use of the HealthSpace Software.

7. Software System Upgrades and Changes

a) The License Fee includes all subsequent core system upgrades and changes instituted by HealthSpace after deployment. It does not include any Custom Development, such as design changes to modules deployed for the Department that are outside the normal configuration options of the HealthSpace Software.

b) HealthSpace will use commercially reasonable efforts to minimize any changes to minimum system requirements for the HealthSpace Software resulting from system upgrades and changes.

8. Intellectual Property

a) The HealthSpace Software will, at all times, remain the property of HealthSpace, subject only to the license of use granted herein, specifically excluding any right of reproduction, sale, lease, sub-license or any other transfer or disposition of the HealthSpace Software, or any portion thereof, by the Department except as follows:

i) upon the transfer, or merger, of substantially all of the assets of the Department to a successor organization, this Agreement and the rights and obligations of the Department herein may be assigned to such successor; or

b) The Department grants HealthSpace a non-exclusive, perpetual and royalty-free license to use all innovations, suggestions, and feedback ("**Feedback**") regarding the HealthSpace Software suggested by the Department staff, provided that the Feedback pertains to the operation or design of the HealthSpace Software, or of possible future extensions of the HealthSpace Software, and is either presented in an area not private to the Department or is sent directly to HealthSpace. Such Feedback is given to HealthSpace on an "as is" basis and the Department does not provide any warranty regarding the Feedback.

9. Termination

a) The Department may terminate this Agreement upon providing ninety (90) days' notice to HealthSpace. The document will be titled "**Notice of Termination**". At the end of the 90-day notice period the Department will comply with the provisions set out in section 10 for Decommissioning.

b) Should either party default in the performance of any obligation under this Agreement or breach any provision contained in the Agreement and not correct or substantially cure the default or breach within thirty (30) days after receipt of written notice by the other party of

such default or breach, then in addition to any other remedies set forth herein, or available in law or in equity, this Agreement may be terminated by the non-defaulting/non-breaching party, following which the Department will comply with the provisions set out in section 10 for Decommissioning.

c) In the event either party ceases its business operations, makes a general assignment for the benefit of creditors, is adjudged bankrupt, or becomes insolvent, then the other party may, at its sole discretion, terminate the Agreement upon thirty (30) days' notice to the other party and the provisions set out in section 10 for Decommissioning will not apply.

10. Decommissioning

a) Upon termination of this Agreement, or its expiration without replacement, the Department will immediately cease using the System.

11. Confidentiality

a) Each party agrees to protect the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind but in no case less than reasonable care, and will not use the Confidential Information of the other party, except in connection with the performance of its obligations under this Agreement or as permitted by this Agreement. The confidentiality provisions set forth in this Agreement will remain in full force and effect in perpetuity.

b) Without limiting the foregoing, HealthSpace will (a) ensure that all copies of the Data will be secured behind a professionally configured firewall, (b) use database systems with adequate and reliable security and will make regular security checks on these systems, and (c) HealthSpace will supply the system administrator with copies of the results of such checks upon request. The Department agrees that it will treat these results as HealthSpace's Confidential Information.

c) Upon termination of this Agreement or upon the written instruction of the party owning Confidential Information, the other party will return or destroy the requesting party's Confidential Information. For this Agreement, a party will be deemed to have destroyed electronic Confidential Information when it executes an application- or operating system-level, commercially reasonable delete function on it, provided that thereafter it does not conduct or permit any recovery or restoration of same.

d) Each party will be responsible to the other for any disclosure of Confidential Information that is not permitted by this Agreement to the extent caused by such party and for any failure by such party to comply with the terms hereof. Each party will defend, indemnify and hold harmless the other, from and against any and all claims arising out of any breach by it of this section 11.d).

e) The obligations of confidentiality set out in this section 11 will not apply in respect of uses or disclosures of Confidential Information where:

i) the discloser consents in writing,

ii) disclosure is required to comply with any applicable law, judicial order or stock exchange rules, provided that the party proposing to disclose the Confidential Information gives the other party reasonable, sufficient notice as may be practicable in the circumstances to contest or protect the required disclosure, or

iii) the party proposing to use or disclose the Confidential Information can establish with documentary evidence that, other than as a result of a breach of this Agreement, the Confidential Information (A) is available in the public domain or is Public Data, (B) was disclosed to it by a third party without violating confidentiality obligations, or (C) was already known by it or was subsequently developed by it without any use of Confidential Information.

12. Protected Health Information

a) HealthSpace will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information (PHI) in accordance to the NIST 800-53 Security Guide should the Department require that HealthSpace, subcontractors(s) or agent(s) create, receive, maintain, or transmit PHI data on behalf of the State. This data shall be protected against unauthorized access, disclosure or modification, theft, or destruction.

b) HealthSpace will use encryption that is in accordance consistent with NIST Special Publication 800-111 Guide to Storage Encryption, including the use of standards based encryption format using triple-DES (3DES), or the Advanced Encryption Standard (AES), or their successors.

c) Backups of PHI will be encrypted in accordance to secure methods as listed in NIST Special Publication 800-111 Guide to Storage Encryption, including off-site storage in a physically secure location with secure access controls to authorized personnel. Backup schedules shall be maintained to ensure timely availability and integrity of data.

d) HealthSpace will implement technical security measures including mechanisms to encrypt and decrypt electronic protected health information (PHI) "at rest" and "during transmission" over an electronic communications network, including the internet, consistent with NIST Special Publications 800-52, 800-77 and Guidelines as appropriate to comply with Federal Information Processing Standards in the protection of PHI.

e) HealthSpace will provide reports or additional information upon request of the state and access by the State or the State's designated staff to HealthSpace's facilities and/or any location involved with providing services to the State or involved with processing or storing State data, and HealthSpace shall cooperate with State staff and audit requests submitted under this Section. Any confidential information of either party accessed or disclosed during the course of the security audit shall be treated as set forth under this Contract or federal or state law or regulations. Each party shall bear its own expenses incurred in the course of conducting this security audit. HealthSpace shall at its own expense promptly rectify any non-compliance with the Policy or other requirements identified by this security audit and provide proof to the State thereof.

13. Indemnification

a) HealthSpace agrees that it will defend, indemnify and hold the Department harmless from any liabilities, claims or demands arising out of the work performed or services provided pursuant to this Agreement from persons who are not party thereto and who claim or allege any personal injury or death or any damage to their property due to the intentional or negligent acts of HealthSpace or its officers, employees, agents or assigns, except to the extent that any such liability relates to any actions of the Department, the Users or any other employees or contractors of the Department. The Department will immediately provide notice to HealthSpace in the event of any such claim, and HealthSpace will have the right to defend and settle any such claims.

b) HealthSpace agrees to compensate the Department for any loss or damages caused directly by HealthSpace to the Department's premises or physical property, arising out of the work performed or services provided pursuant to this Agreement.

c) HealthSpace agrees to provide the Department proof of liability insurance prior to commencing work under this Agreement.

d) The Department acknowledges that the licensed software provided by HealthSpace constitutes part of an information system to be used by the Department, its staff, employees and authorized agents in the performance of their professional responsibilities and is in no way intended to replace their professional skill and judgment.

14. Notice

a) All notices will be in writing and will be sent by certified mail, return receipt requested, or

by email to the people and addresses set out below, or to such other address as either party may request by notice. All notices sent by certified mail will be effective upon the date of receipt. Notices sent by email will be immediately effective on the date of transmission if sent during regular business hours, or on the next business day if sent outside of regular business hours.

To the Company:

HealthSpace USA Inc.
114 W. Magnolia Street, Suite 400
Bellingham, WA 98225
Telephone: 1 (866) 860-4224 Ext. 2000
Web: www.healthspace.com
Contact: Joseph Willmott
jwillmott@healthspace.com

To the Department:

As set out in Schedule "A".

b) If normal mail service or email are interrupted by strike, slow down, Force Majeure or other cause, then a notice sent by the impaired means of communication will not be deemed to be received until actually received, and the parties sending the notice will use any other such services which have not been so interrupted or will deliver such notice in order to ensure prompt receipt thereof.

15. Force Majeure

a) Neither party is liable for any delay, interruption or failure in the performance of its obligations if caused by acts of God, war, declared or undeclared, fire, flood, storm, slide, earthquake, their failure, inability to obtain equipment, supplies or other facilities not caused by a failure to pay, labor disputes, or other similar event beyond the control of the party affected which may prevent or delay such performance. If any such act or event occurs or is likely to occur, the party affected will promptly notify the other, giving particulars of the event. The party so affected will use reasonable efforts to eliminate or remedy the event.

16. Information Management Responsibilities

a) HealthSpace will comply with all applicable privacy laws, rules and regulations of the jurisdiction in which the Department is located.

17. General

a) HealthSpace will not, during the term of this Agreement, perform a service or, or provide advice to any person, firm or agency, which gives rise to a conflict of interest between the obligations of HealthSpace under this Agreement, except that which is required by law.

b) This Agreement, the schedules and all attachments referenced herein will constitute the entire Agreement of the parties and will supersede all prior negotiations, proposals, and representations, whether written or oral.

c) Time will be of the essence in this Agreement.

d) This Agreement may not be modified except by subsequent agreement in writing executed by both the Department and HealthSpace.

e) It is mutually agreed by and between the parties that the relationship between the Department and HealthSpace will be that of independent contractor and no principal-agent or employer-employee relationship is created by this Agreement. The Department is interested in the results achieved and the conduct and control of the work will lie solely with HealthSpace. HealthSpace is not entitled to any of the benefits the Department provides

its employees. It is further understood that the Department does not agree to use HealthSpace exclusively. Moreover, it is understood that HealthSpace is free to contract for similar services to be performed for other parties while under contract with the Department.

f) It is mutually agreed by and between the parties that if any section, subsection, sentence, clause, phrase, or portion of this Agreement will be for any reason held invalid, unenforceable or unconstitutional by a court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portions thereof.

g) It is mutually agreed and acknowledged by and between the parties that any breach by it of this Agreement with respect to intellectual property rights to HealthSpace Software or Confidential Information may cause the other party immediate and irreparable harm for which monetary damages would not be adequate to compensate such other party, and so upon such a breach the other party may seek injunctive or other equitable relief against the breaching party from any court of competent jurisdiction without establishing the inadequacy of monetary damages, proof of actual harm or posting any bond or security.

h) This Agreement will be governed by and construed in accordance with the laws enforced from time to time in the State of Tennessee and the federal laws of the United States applicable therein, without reference to their conflicts of laws principles.

i) The captions and headings appearing in this Agreement are inserted for convenience only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

j) This Agreement will enure to the benefit of, and be binding upon, the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns. The Department may not assign or transfer any interest in this Agreement without the prior written consent of HealthSpace.

k) Whenever the singular or masculine is used herein, the same will be deemed to include the plural or the feminine of the body politic or corporate where the context of the party so requires.

l) The terms of this agreement shall be subject to the terms and conditions of the Purchase order issued by the Department for the purchase of the Application. In the event of conflict, the terms of the Purchase Order shall prevail.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on the _____ day of _____, 20___.

For DEPARTMENT:

_____
Date

_____
Authorized Signatory

_____
Print Name Here

For HEALTHSPACE USA INC.:

_____
Date

_____
Joseph Willmott

Appendix "A"

Statement of Work and Scope of Service:

1. Scope of Service:
HealthSpace will provide the System software meeting the Department inspection functions**:**

a) Inspections:
Provided will be the base HSCloud System and includes the following core EH Tools:
- Address
- Establishment
- Permit
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Attention	**Title**	
Address		
City	**State**	**Zip Code**
Telephone	**Email Address**	

Purchasing Divison
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia
Request for Quotation
21   — Info Technology

Proc Folder: 539202

Doc Description: Addendum No. 1   Produce Safety Inspection Software

Proc Type: Central Purchase Order

Date Issued	Solicitation Closes	Solicitation No	Version
2019-02-13	2019-02-20 13:30:00	CRFQ 1400 AGR1900000007	2

BID RECEIVING LOCATION

BID CLERK

DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

2019 WASHINGTON ST E

CHARLESTON   WV   25305

US

VENDOR

Vendor Name, Address and Telephone Number:

FOR INFORMATION CONTACT THE BUYER

Melissa Pettrey
(304) 558-0094
melissa.k.pettrey@wv.gov

Signature X	FEIN #	DATE

All offers subject to all terms and conditions contained in this solicitation

Addendum No. 1

Addendum No. 1 is issued to publish and distribute the attached information to the vendor community.
****

Central Request for Quotation

The West Virginia Purchasing Division is soliciting bids on behalf of the Agency, the West Virginia Department of Agriculture, to establish a contract for the one-time purchase of a Produce Safety Inspection Software per the bid requirements, specifications, terms and conditions attached to this solicitation.

INVOICE TO	SHIP TO
PROCUREMENT OFFICER 304-558-2221	AUTHORIZED RECEIVER 304-558-2202
AGRICULTURE DEPARTMENT OF	AGRICULTURE DEPARTMENT OF
ADMINISTRATIVE SERVICES	INFORMATION TECHNOLOGY DIVISION
1900 KANAWHA BLVD E	163 GUS R DOUGLAS LN, BLDG 1
CHARLESTON WV 25305-0173	CHARLESTON WV 25312
US	US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Produce Safety Inspection Software	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43230000			

Extended Description :
Produce Safety Inspection Software

INVOICE TO	SHIP TO
PROCUREMENT OFFICER 304-558-2221	AUTHORIZED RECEIVER 304-558-2202
AGRICULTURE DEPARTMENT OF	AGRICULTURE DEPARTMENT OF
ADMINISTRATIVE SERVICES	INFORMATION TECHNOLOGY DIVISION
1900 KANAWHA BLVD E	163 GUS R DOUGLAS LN, BLDG 1
CHARLESTON WV 25305-0173	CHARLESTON WV 25312
US	US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Installation of Produce Safety Inspection Software	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43230000			

Extended Description :
Installation of Produce Safety Inspection Software

	INVOICE TO			SHIP TO	

INVOICE TO

PROCUREMENT OFFICER 304-558-2221
AGRICULTURE DEPARTMENT OF
ADMINISTRATIVE SERVICES
1900 KANAWHA BLVD E
CHARLESTON   WV25305-0173
US

SHIP TO

AUTHORIZED RECEIVER 304-558-2202
AGRICULTURE DEPARTMENT OF
INFORMATION TECHNOLOGY DIVISION
163 GUS R DOUGLAS LN, BLDG 1
CHARLESTON   WV 25312
US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Training for Produce Safety Inspection Software	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43230000			

Extended Description :

Training for Produce Safety Inspection Software

SOLICITATION NUMBER: AGR1900000007
Addendum Number: 1

The purpose of this addendum is to modify the solicitation identified as AGR1900000007 ("Solicitation") to reflect the change(s) identified and described below.

Applicable Addendum Category:

[ ] Modify bid opening date and time

[ ] Modify specifications of product or service being sought

[X] Attachment of vendor questions and responses

[ ] Attachment of pre-bid sign-in sheet

[ ] Correction of error

[ ] Other

Description of Modification to Solicitation:

1. **To publish vendor questions and Agency responses.**
2. **Bid opening date remains 02/20/2019 @ 1:30 P.M. EST**

Additional Documentation: Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.

2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Q1. Will the State consider a hosted solution?

A1. No, the software must be housed in WVDA infrastructure.

Q2. How many concurrent users?

A2. Up to 20 users.

Q3. Are the use of iPads under consideration?

A3. Not at this time.

Q4. What is currently being used?

A4. Paper Inspections.

Q5. What is the project start date and required implementation date for management of WV's produce safety program?

A5. Upon award of the contract.

Q6. Produce Safety Inspection Software – the quantity listed is one (1). We license the software per installed PC. I believe that the Department of Agriculture needs a quantity of five (5) licenses. How do I respond to indicate that we will be quoting a quantity of five licenses? When answering the online bid, are the "Comments" that I add to that line item the means to define / quantify the scope of what the bidder will is proposing for that line item?

A6. Quote it as one perpetual license for up to 5 devices.

Q7. Implementation Services – there are a couple of items that we usually estimate (e.g. Travel and related expenses, data conversions, etc.). Based on this format, it looks like I am going to need to provide a fix price ... is that correct?

A7. Yes it will be a fixed price for implementation services.

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: AGR1900000007

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.
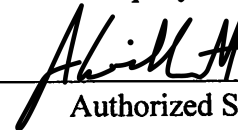
Addendum Numbers Received:
(Check the box next to each addendum received)

[X] Addendum No. 1	[ ] Addendum No. 6
[ ] Addendum No. 2	[ ] Addendum No. 7
[ ] Addendum No. 3	[ ] Addendum No. 8
[ ] Addendum No. 4	[ ] Addendum No. 9
[ ] Addendum No. 5	[ ] Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

HealthSpace USA Inc.
_____
Company

_____
Authorized Signature

February 18, 2019
_____
Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.