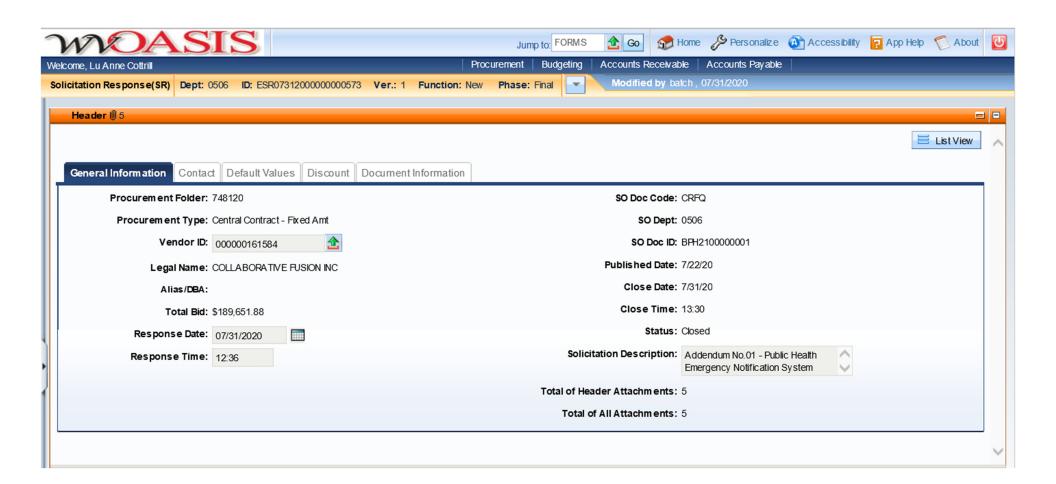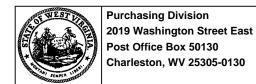**2019 Washington Street, East**
Charleston, WV 25305
Telephone: 304-558-2306
General Fax: 304-558-6026
Bid Fax: 304-558-3970

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.

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

Solicitation Response(SR)   **Dept:** 0506   **ID:** ESR07312000000000573   **Ver.:** 1   **Function:** New   **Phase:** Final   ▼   **Modified by** batch , 07/31/2020

Header 📎 5   ▭ ▬

[List View]

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

Procurement Folder: 748120

Procurement Type: Central Contract - Fixed Amt

Vendor ID: 000000161584 ⬆

Legal Name: COLLABORATIVE FUSION INC

Alias/DBA:

Total Bid: $189,651.88

Response Date: 07/31/2020 📅

Response Time: 12:36

SO Doc Code: CRFQ

SO Dept: 0506

SO Doc ID: BPH2100000001

Published Date: 7/22/20

Close Date: 7/31/20

Close Time: 13:30

Status: Closed

Solicitation Description: Addendum No.01 - Public Health Emergency Notification System

Total of Header Attachments: 5

Total of All Attachments: 5

Proc Folder : 748120

Solicitation Description : Addendum No.01 - Public Health Emergency Notification System

Proc Type : Central Contract - Fixed Amt

Date issued	Solicitation Closes	Solicitation Response	Version
	2020-07-31 13:30:00	SR 0506 ESR07312000000000573	1

VENDOR

000000161584

COLLABORATIVE FUSION INC

Solicitation Number: CRFQ   0506   BPH2100000001

Total Bid : $189,651.88   **Response Date:**   2020-07-31   **Response Time:**   12:36:49

Comments:

FOR INFORMATION CONTACT THE BUYER

Brittany E Ingraham

(304) 558-0067
brittany.e.ingraham@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	Emergency Notification System - Year 1/Deliverable 1				$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 1/Deliverable 1: Specifications Item 4.1.14.1.1: By the end of Week 1 of the first year of the contract: Vendor will meet with CTP to set up implementation strategy. This portion of the deliverable can be accomplished by in-person meeting, a telephone conference call, or WebEx (or equal) type presentation. Vendor will then meet with Notification System Workgroup (State developed) to initiate implementation process. An in-person meeting must be conducted in Charleston, WV with CTP staff.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	Emergency Notification System - Year 1/Deliverable 2				$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 1/Deliverable 2: Specifications Item 4.1.14.1.2: By end of the first month of the first year of the contract: Vendor will develop/implement State and Local Health components of Notification System. This will include development of capacity to push messages/information to State and Local Health-developed call groups as well as internal and overall message management capability. This also includes the provision of the vendor-supplied API Protocol, described under Section 4.1.9.11.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	Emergency Notification System - Year 1/Deliverable 3				$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 1/Deliverable 3: Specifications Item 4.1.14.1.3: By end of the first month of the first year of the contract: Vendor will complete data transfer (call groups) from incumbent system -OR- complete building and import of new State and LHD call groups into Notification System.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	Emergency Notification System - Year 1/Deliverable 4				$500.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 1/Deliverable 4: Specifications Item 4.1.14.1.4: By end of the first month of the first year of the contract: Vendor will develop initial user training curriculum/delivery mechanism and complete initial user training for State and LHDs as described above in this document in Section 4.1.12.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	Emergency Notification System - Year 1/Deliverable 5				$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 1/Deliverable 5: Specifications Item 4.1.14.1.5: By end of the first month of the first year of the contract: Vendor will complete dry run performance tests and correct any residual issues. This will be executed and evaluated on site in Charleston, WV. System will be initialized and placed in-service. Vendor presence will be required in Charleston, WV during the performance test and initiation of the system.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	Emergency Notification System - Year 1/Deliverable 6				$46,421.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 1/Deliverable 6: Specifications Item 4.1.14.1.6: From the first day of the second month of the first year of the contract through the end of contract (first year): Vendor will maintain system in "ready" state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
7	Emergency Notification System - Year 1/Deliverable 7				$843.36

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 1/Deliverable 7: Specifications Item 4.1.14.1.7: From the first day of the second month of the first year of the contract through the end of contract (first year): Technical assistance will be performed as needed upon contact by State or Local staff at a minimum not to exceed quantity of 15 hours of technical assistance per month (vendor may provide more hours in any month as part of this deliverable, but must provide at least 15 hours, and may not charge for any hours in addition to the 15).

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
8	Emergency Notification System - Year 2/Deliverable 1				$250.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 2/Deliverable 1: Specifications Item 4.1.14.2.1: By end of the third month of the second year of the contract: Vendor will develop user update training curriculum/delivery mechanism for all users as described above in this document in Section 4.1.12. Training to be provided via 2 WebEx (or equal) presentations or 1 reproducible DVD.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
9	Emergency Notification System - Year 2/Deliverable 2				$250.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 2/Deliverable 2: Specifications Item 4.1.14.2.2: By end of the third month of the second year of the contract: Vendor will complete new user training for State and LHDs as described above in this document in Section 4.1.12. Training to be provided via 2 WebEx (or equal) presentations or one reproducible DVD.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
10	Emergency Notification System - Year 2/Deliverable 3				$46,421.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 2/Deliverable 3: Specifications Item 4.1.14.2.3: Throughout contract period (Year two): Vendor will maintain system in
"ready" state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
11	Emergency Notification System - Year 2/Deliverable 4				$562.20

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 2/Deliverable 4: Specifications Item 4.1.14.2.4: Throughout contract period (Year 2): Technical assistance will be performed as needed upon contact by State or Local staff at a minimum not to exceed quantity of 10 hours of technical assistance per month (vendor may provide more hours in any month as part of this deliverable, but must provide at least 10 hours, and may not charge for any hours in addition to the 10).

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
12	Emergency Notification System - Year 3/Deliverable 1				$250.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 3/Deliverable 1: Specifications Item 4.1.14.3.1: By end of the third month of the third year of the contract: Vendor will develop user update training curriculum/delivery mechanism for all users as described above in this document in Section 4.1.12. Training to be provided via 2 WebEx (or equal) presentations or 1 reproducible DVD.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
13	Emergency Notification System - Year 3/Deliverable 2				$250.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 3/Deliverable 2: Specifications Item 4.1.14.3.2: By end of the third month of the third year of the contract: Vendor will complete new user training for State and LHDs as described above in this document in Section 4.1.12. Training to be provided via 2 WebEx (or equal) presentations or one reproducible DVD.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
14	Emergency Notification System - Year 3/Deliverable 3				$46,421.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 3/Deliverable 3: Specifications Item 4.1.14.3.3: Throughout contract period (Year 3): Vendor will maintain system in "ready" state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
15	Emergency Notification System - Year 3/Deliverable 4				$281.16

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 3/Deliverable 4: Specifications Item 4.1.14.3.4: Throughout contract period (Year 3): Technical assistance will be performed as needed upon contact by State or Local staff at a minimum not to exceed quantity of 5 hours of technical assistance per month (vendor may provide more hours in any month as part of this deliverable, but must provide at least 5 hours, and may not charge for any hours in addition to the 5).

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
16	Emergency Notification System - Year 4/Deliverable 1				$250.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 4/Deliverable 1: Specifications Item 4.1.14.4.1: By end of the third month of the fourth year of the contract: Vendor will develop user update training curriculum/delivery mechanism for all users as described above in this document in Section 4.1.12. Training to be provided via 2 WebEx (or equal) presentations or 1 reproducible DVD.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
17	Emergency Notification System - Year 4/Deliverable 2				$250.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 4/Deliverable 2: Specifications Item 4.1.14.4.2: By end of the third month of the fourth year of the contract: Vendor will complete new user training for State and LHDs as described above in this document in Section 4.1.12. Training to be provided via 2 WebEx (or equal) presentations or one reproducible DVD.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
18	Emergency Notification System - Year 4/Deliverable 3				$46,421.00

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 4/Deliverable 3: Specifications Item 4.1.14.4.3: Throughout contract period (Year 4): Vendor will maintain system in "ready" state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
19	Emergency Notification System - Year 4/Deliverable 4				$281.16

Comm Code	Manufacturer	Specification	Model #
93131802			

Extended Description : Year 4/Deliverable 4: Specifications Item 4.1.14.4.4: Throughout contract period (Year 4): Technical assistance will be performed as needed upon contact by State or Local staff at a minimum not to exceed quantity of 5 hours of technical assistance per month (vendor may provide more hours in any month as part of this deliverable, but must provide at least 5 hours, and may not charge for any hours in addition to the 5).

RFQ Response for a Public Health Emergency Notification System

Submitted to State of West Virginia Department of Health and Human Services (DHHR), Bureau for Public Health (BPH), Center for Threat Preparedness (CTP)

Submitted by:

Collaborative Fusion (Juvare, LLC)
235 Peachtree St. NE, Suite 2300
Atlanta, GA 30303

Point of Contact:

Ann Marie Brown
Client Success Manager
o: 336 689 5060
e: annmarie.brown@juvare.com

31 July 2020

JUVARE

July 31, 2020

Ms. Brittany E. Ingraham
Senior Buyer
Department of Administration, Purchasing Division
2019 Washington Street, East
Charleston, WV 25305-0130

Reference: **Public Health Emergency Notification System – CRFQ BPH2000000003**

Dear Ms. Ingraham,

Collaborative Fusion, Inc. (Juvare, LLC) is pleased to offer the following to the Bureau for Public Health for ongoing support and maintenance of CORES HAN. As the Bureau's current provider of this platform, Juvare is uniquely positioned to be immediately responsive to the State's requirements for a hosted emergency notification system and can fully meet the timelines specified within its RFQ.

We are a recognized leader in providing a variety of emergency management and response solutions to hospitals, public health and the healthcare community. We currently partner with Departments of Health in 34 states – 18 of which utilize our HAN technologies, including the State of West Virginia.

We have taken great strides and invested heavily in our emergency notification and health alerting capabilities. As an existing user of both the CORES HAN and CORES RMS modules (supporting WVREDI), the West Virginia DHHR has an opportunity to continue to utilize these solutions and maintaining program consistency via the benefits discussed in this proposal. In acknowledgement of the significant investment in Juvare solutions already made by West Virginia, we have prepared this proposal to align with these existing initiatives.

Against this backdrop, we thank you for this opportunity, and look forward to continuing our relationship with the West Virginia Department of Health and Human Resources. Please contact Ann Marie Brown, Client Success Manager, at 336-689-5060 or via email at annmarie.brown@juvare.com should you need any further information.

Respectfully submitted,

Nick Meeks
Senior Vice President and Chief Financial Officer
470.279.6457| nick.meeks@juvare.com

Table of Contents

Attachment A – Software Services Agreement

Addendum Acknowledgement Form

Purchasing Affidavit

Insurance Coverage

Certification Page

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.

Ann Marie Brown
_____
(Name , Title)

Ann Marie Brown – Client Success Manager
_____
(Printed Name and Title)

235 Peachtree Street NE, Suite 2300 Atlanta GA, 30303
_____
(Address)

336 689 5060   - annmarie.brown@juvare.com
_____
(Phone Number)/ Email

_____

CERTIFICATION AND SIGNATURE: By signing below, or resubmitting 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 is 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.

Collaborative Fusion
_____
(Company)

DocuSigned by:

Nick Meeks

D4DD6026E50C4C6...
_____
(Authorized Signature) (Representative Name, Title)

Nick Meeks – Senior Vice President and Chief Financial Officer
_____
(Printed Name and Title of Authorized Representative)

July 31, 2020
_____
(Date)

470.279.6457   Fax – 470.279.6025
_____

Qualifications

Vendor, or Vendor's staff if requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:

3.1. The successful vendor must have three (3) years minimum experience with rapid notification as evidenced by website information, business license, and/or other proof. Documentation demonstrating the Vendor meets this experience requirement should be included with the bid. This information will be required prior to award.

Juvare has provided our CORES technology for the last 16 years, since 2004.

Mandatory Requirements

4.1 Mandatory Contract Services Requirements and Deliverables: Contract Services must meet or exceed the mandatory requirements listed below.

4.1.1 In addition to the notification requirements described above, the service selected will also serve as the emergency alerting vehicle for dissemination of important alerts and warnings, including CDC's Health Alert Network (HAN) messages. Information for alerting will be imported from existing databases or spreadsheets with remote update capability or will be separately built and loaded into the system from every West Virginia county as well as the Center for Threat Preparedness itself.

Confirmed— We are the only provider able to continue to support the established system's capacity to function as a CDC PHIN compliant messaging system. All existing data will be maintained.

4.1.2 The service selected must meet the following criteria: Must comply with all applicable Public Health Information Network (PHIN) certification requirements as articulated in the CDC Partner Communication and Alerting (PCA) Guide. The PCA Guide can be found at: https://www.cdc.gov/phin/resources/guides/documents/PCA_Guide_v1_3.pdf

Confirmed—The proposed CORES HAN meets all applicable PHIN guidance and will continue to do so.

4.1.3 Continuous and uninterrupted availability of this service is critical. While it will not necessarily be used on a daily basis, the service must continuously be available for use in times of need. Accordingly, the service must be distributed across multiple call centers utilizing different telephone and bandwidth providers within the United States to minimize the likelihood that an outage in any geographic area or affecting a single provider would affect service availability. Security measures must be deployed to ensure all possible safeguards are in place to protect data in storage at each of the locations. The service must be able to automatically route calls over the least congested networks to ensure rapid message delivery. The service must have redundancy or servers in different geographical locations.

Confirmed—WVPH ALERT will be continually available and is hosted in multiple data centers for redundancy and resiliency. Strong security is deployed, and intelligent call routing/load balancing is employed.

4.1.4 The successful vendor must include unlimited inbound or outbound calls in their bid. In addition, the system database must allow for unlimited names/contact information to be included. The current estimated number of names/contact information is sixty (60) organizations and sixteen- thousand-five-hundred (16,500) users. These numbers will fluctuate depending on many variables, including scope and acuity of the incident, length of time the incidents plays out and other factors. Vendor will provide the agencies needs whether it be less or greater than the current estimates.

Confirmed—Given our extensive partnership, Juvare continues to include unlimited inbound and outbound calls within our response. Telecom charges are included at no extra charge, assuming usage remains within expected limits based on past averages. The WVPH ALERT database can accept unlimited names and contacts.

4.1.5 The successful vendor shall agree to work with the current vendor (Juvare) to ensure a timely, accurate, and complete transition of the project operations. The successful vendor selected must import existing data from the West Virginia Public Health Alert System (WVPHAlert), the incumbent emergency notification system (all call groups from each user location in counties and State) into the new system within thirty (30) calendar days of contract award effective start date. If the incumbent system is not available to export existing call group data from the state and LHDs, then the successful vendor must rebuild all the call groups from each of those agencies within thirty (30) calendar days of contract award effective start date. This would include personal interaction with staff from each of the agencies and any technical assistance needed.

Confirmed—Because WVPH ALERT is already up and running, there will be no interruption in service. There will be a seamless transition from the current contract to the new contract if we are privileged to be chosen again as your emergency notification system partner.

4.1.6 The successful bidder shall ensure the new system is fully operational within thirty (30) calendar days of contract award effective start date.

Confirmed—As your current vendor, WVPH ALERT was delivered within 30 days of the original contract in 2011 and is fully functional today. The solution will be available on day 1 of the new contract without interruption.

4.1.7 The successful bidder shall cooperate with the agency and any subsequent vendor should the contract, which is the subject of this RFQ, be terminated, and to deliver any and all electronic files, documentation, and associated work products to the Agency within thirty (30) days of receipt of notice of contract termination. The format for exporting data from the terminated vendor's current system to the new successful bidders' system will be provided upon award.

Confirmed—Upon termination of this contract, we will cooperate with the Agency, and will deliver any State-owned data upon request within 30 days.

4.1.8 The successful bidder's service must provide for secure transmission of notification messages and report results back to the West Virginia State Center for Threat Preparedness or other designated facility. The service center must also have multiple points of communication from contact requests including, the internet (with or without a Virtual Private Network (VPN)), a dedicated dial-up line, and a private peering network).

Confirmed— Juvare confirms that WVPH ALERT, which runs on CORES HAN, supports the ability to securely transmit notification messages and provide reports back to the West Virginia State Center for Threat Preparedness or other designated facility. CORES HAN also includes multiple points of communication from contact requests including Internet (with or without

VPN), dedicated dial-up, and a private peering network.

4.1.9 Each of the following service functionalities are mandatory requirements of the successful bidder:

4.1.9.1 Must have the capability to send notifications rapidly via multiple communication mediums utilizing assigned roles; (Must be able to use both "land lines" and mobile phone, fax, instant messaging, and Simple Mail Transmission Protocol (SMTP) Short Message Service (SMS) messaging such as email, alphanumeric papers and other wireless devices.)

Confirmed—WVPH ALERT includes the capability to send notifications to land lines, mobile phones, faxes, IM, SMTP (email), SMS, pagers, and other devices.

4.1.9.2 Must be capable of delivering customized messages, both the content and the delivery mechanism, to each individual, and in the case of voice messages using a text-to-speech engine to dynamically create the messages.

Confirmed— WVPH ALERT supports the customization of message content by delivery mechanism. TTS is supported.

4.1.9.3 Must have the ability to send the notification to one device and if there is no answer within a specified timeframe, as determined by the type of incident, send the notification to the next device listed in the user's profile. This includes being able to select which phone device the message is being sent to (i.e. cell phone vs. work phone vs. home phone). This process must continue until contact attempts for all listed devices defined in the user's profile are exhausted. The message initiator must have the ability to require the system to continue contact attempts until contact is successful.

Confirmed— WVPH ALERT administrators can configure the exact date and time to send each notification, the number of times to contact recipients, and the method of communication (phone, email, etc.). For even greater convenience, administrators can request a response, which recipients can submit through a variety of methods including email, text, and phone.

For messages that are sent regularly, administrators can create templates that are accessed easily and quickly, permitting them to be activated with less than five (5) clicks, or scheduled for future delivery on an as-needed basis. You can create templates with response options beforehand and view responses dynamically in the application instead of using manual, time-consuming processes to contact individuals in adverse events or unexpected schedule changes. Virtually every characteristic of an alert can be pre-composed and saved in a template format, allowing templates to be created for various types of incidents. When recalling a template, the message can be reviewed and tweaked prior to delivery. Users also can retroactively save past messages as templates using their "Sent Items" folder to access composition information.

When composing a message on-the-fly or creating a template, administrators can specify the conditions that need to be satisfied before the attempts to contact the recipient stop. For instance, you can specify not to re-contact if the recipient listens to a partial message. If this recipient has three phone numbers listed in their profile, and does not answer the first number but answers the second, the system does not call the last number. You can also specify the number of times to contact the recipient and the time between each contact attempt.

Currently, the WVPH ALERT system honors the user's defined method of communication order (phone, email, etc.) for contact. Upon award of the contract, the WVPH ALERT system can be enhanced to support the ability for administrators to specify specific phone types and order those types for message delivery, thereby overriding the recipient's preference.

4.1.9.4 Must allow the user's profile to contain delivery device preference order based on at least two self-defined timeframes; (Example: Call pager first on Monday – Friday, 8:00 A.M. – 5:00 P.M. EST and home phone first at all other times. Call mobile phone second at all times.)

Confirmed—WVPH ALERT supports the ability to customize device preference based on timeframes. End users have the ability to customize delivery methods based preference at any time. These can be configured for standard business hours (Monday through Friday), afterhours, weekends, etc.

4.1.9.5 Must be able to deliver notifications based on prioritization of individuals/roles (i.e. send to those in more authority first, then other users.)

Confirmed—CORES supports delivering notifications based on prioritization of authority. Administrators can choose to send a message to a higher authority by choosing system role, whereas the message is sent simultaneously to the user and the higher authority. Messaging is highly configurable within the CORES HAN system, as provided in years past.

The most efficient way to ensure certain individuals/roles receive a notification before others is to send the message to those prioritized higher first and then send the same message to all other recipients. No other provider can provide messaging via the CORES HAN system.

4.1.9.6 Must have the capacity to notify predefined groups and "on- the- fly" ad-hoc groups, not only by name, but by all fields (i.e. roles, agency worked for, geographic location, and political jurisdiction).

Confirmed—Currently, the WVPH ALERT system has a relatively flat organization structure with each county health department represented as an organization. There are only eight organizations that have children organizations. Juvare can work with the WVPH ALERT system administrators to identify changes if changes need to be made to this structure so additional agencies, locations and political jurisdictions can be added.

For example, if WVPH ALERT wanted to message according to the 17 districts of the West Virginia legislature, that organizational structure could easily be created in WVPH ALERT. For example, a new organization called "Senate District – 01" could be created that would contain Hancock, Brooke, Ohio and Marshall Counties.

4.1.9.7 Must have the capacity to notify 'subgroups' (i.e. group(s) within a group.)
Confirmed— The WVPH ALERT system has the ability to notify parent organizations and/or child organizations that serve as the subgroups in order to be notified separately. Other options for notifying sub-groups of recipients include groups and search result sets.

4.1.9.8 Must have the capacity to select individuals even if they are not in a group or subgroup.
Confirmed—WVPH ALERT supports the notification of specific/single individuals, regardless of inclusion in a group.

4.1.9.9 Must have capability of multiple administrators; three hundred fifty (350) at a minimum.
Confirmed—Juvare has included provisions for at least 350 administrators in the proposed platform.

4.1.9.10 System must allow for agency control over the number and type of call groups, when necessary.
Confirmed— The WVPH ALERT system provides for an unlimited number of organizations and groups to be created.

4.1.9.11 Must initiate a broadcast directly from another application through an Application Program Interface (API) protocol solution (supplied by the successful vendor) so that contact data can be maintained in another system and broadcasts can be initiated directly from another application. This process should be provided through a web-services API using a standards-based SOA (service oriented architecture). In addition to initiating the broadcast, the API should also handle cancellation and status of the notification.
Confirmed—WVPH ALERT supports the ability to broadcast alerts through an API. Among many available technologies, we employ a SOA that can initiate broadcasts, and management of ongoing alerts (including cancellation and status reporting).

4.1.9.12 Must allow for the activation of alerts via the Internet or telephone; security must be in place to only permit a notification request from specific, predefined phone numbers and systems user identification accounts. Additionally, a log of notification requests from any source, successful or not, must be maintained in the system (not through manual logging) and made available as an automated report.

Confirmed—The WVPH ALERT can be configured with predefined "templates" for activation via phone to specific system user accounts. Authorized administrators can contact the Juvare Support Center, available 24/7 by phone or email, to have a member of our support team initiate the alert or notification. These types of templates do not provide an option to change the text on-the-fly, though Juvare would be willing to work with the WVPH ALERT to explore expanding this capability and support in the future.

Alternatively, WVPH ALERT administrators can use CORES Messages to create and send notifications when they are not sitting at their desk or home computers. CORES Messages incorporates the functionality of the WVPH ALERT module into a flexible, intuitive app available on the iOS and Android™ platforms. The app integrates directly with WVPH ALERT to provide administrators with convenient access to the message Inbox, templates, contacts, and delivery statistics from their mobile devices.

> **4.1.9.13** System must provide immediate receipt confirmation for each notification. Results of the notification and confirmation must be available through live, on-line inquiry and through historical reports.

Confirmed—WVPH ALERT provides for receipt notification immediately upon delivery. All results are available through live and historical reports.

> **4.1.9.14** For emergency notification, notification recipients must have the capability of replying to the call or calling back into the system (not to a person) and reporting their availability for emergency response. The system must be able to record their responses and include their availability in reports back to the sender. The service must be able to receive at least twenty-five
> (25) inbound calls per minute. The service must have no set number of outbound calls or messages to receive per minute.

Confirmed—WVPH ALERT supports the ability for message recipients to reply to a call or call back into the system to report their availability for emergency response. All replies are collected and reported in real-time back to the sender.

WVPH ALERT supports the use of DTMF tones to collect data, not just confirmation, for both inbound and outbound calls as well as the ability for message recipients to respond via email, SMS/MMS, two-way pager, and by logging into the CORES HAN system. When using telephony modalities, WVPH ALERT enables notification senders to collect responses from recipients through the use of touch-tone keys, voice recorded messages, and interactive message polling features. All responses are cataloged and available as part of the real-time reporting interface. WVPH ALERT also supports the bridging of notification recipients into call centers, conference call bridges, or to other phone numbers. Optional multi-level decision trees can be created whereby the answer to a question can kick off another question for the user to answer. WVPH ALERT can support well over 25 inbound calls per minute as required by the RFQ.

4.1.9.15 Must provide the capability to access reports via both the internet and fax. Reports must be available in real-time for emergency notification and within user-defined time periods for non- emergency notifications, allowing for ongoing status reports of those notified. Reports will include calling results and time of results, such as individual reached, message left, no-answer, number out-of-service, etc., and, for emergency notification, will include responder reported availability.

Confirmed—Reports can be accessed a variety of ways and are available in real- time. Detailed reports on call metrics and status are available.

4.1.9.16 Must have capability for the sender to schedule notification to be sent at a later time and/or date.

Confirmed—WVPH ALERT supports the ability to schedule alerts for a later time and/or date.

4.1.9.17 Must allow for multiple layers of authorization/authority. Multiple authorized users may be able to send a non- emergency notification via e-mail or fax, but only those with approved authority can send emergency notifications.

Confirmed—The WVPH ALERT system distinguishes administrator roles between local, regional and state-wide, providing the proper authority for only designated users to send emergency notifications. Using organization permissions, the ability to send notifications can be defined even further.

4.1.9.18 Must be able to have multiple layers of administrator rights as to what access is given. (i.e. view, change, add, and notify rights determined by the State office).

Confirmed—WVPH ALERT supports multiple layers of administrator rights, including view, change, add, notify, etc.

4.1.9.19 Must have the capability of producing reports identifying costs for use by notification event, individual sender, and/or organization.

Confirmed—Reports can be produced to identify costs of notification events, senders, and organizations. Juvare can add a billing code field to the WVPH ALERT system that will provide the capability to produce reports identifying costs for use by notification event, individual sender, and/or organization.

4.1.9.20 Must have the ability to send multiple notifications at the same time to the same or different recipients.

Confirmed—Senders are able to launch multiple simultaneous communications to the same and/or different recipients.

4.1.9.21 Must have the ability to provide login audit tracking.
Confirmed—Login audit tracking is available within WVPH ALERT.

4.1.9.22 Must have the ability to maintain privacy of all contact information through access control where only administrators with appropriate rights can view or update recipient and contact information.

Confirmed—CORES HAN, and therefore WVPH ALERT, tightly control the privacy of all contact information within the system. Strong access controls are in place, where only fully qualified users or administrators can access and update user information.

4.1.9.23 Must have the ability to customize the telephone number display (caller identification (ID) for voice messages and the email addresses for text messages.

Confirmed—Our proposal includes the ability to customize caller ID number and email sender name/domain for messages. WVPH ALERT supports the ability to customize the telephone number display (caller ID number) for voice messages and the email address for text or email messages. Presently, WVPH ALERT uses the number (304-343-5999) for all outbound calls and asks their users to add this number to their contacts.

4.1.9.24 Must have the ability to override call-blocking.

Confirmed—Call blocking is provided within the WVPH ALERT system, as previously provided within the past several years.

4.1.9.25 Must have the ability to leave a message when a voice- delivered message reaches an answering machine or voicemail.

Confirmed—Support for message delivery preferences, including voicemail, allows message senders to specify to leave or not leave a message as shown below.

Do not recontact if:
- ☐ Recipient listens to entire message
- ☐ Recipient listens to partial message
- ☐ Answering Machine listens to entire message
- ☐ Answering Machine listens to partial message

4.1.10 Support for the successful bidder's services must be available 24 hours a day, 7 days a week, 365 days a year, including holidays, (24/7/365) via telephone and the Internet.

Confirmed—Our proposal includes around-the-clock service, 24x7, via phone and email support.

4.1.11 Due to the emergency use of this system, routine maintenance, system upgrades or emergency repairs for system degradation or failure must be managed in as expeditious a process as possible. Routine maintenance and system upgrades must be done outside the hours of 6:00am – 6:00pm EST Monday through Friday (unless system maintenance can be completed in a phased approach without loss of system integrity). Agency must be notified in advance of routine maintenance and system upgrades. Emergency interventions must be initiated immediately (within one hour) upon discovery of a problem and every effort must be made to complete repairs or provide appropriate temporary system-wide

solutions until permanent repairs can be completed, as quickly as possible with a minimum of system disruption/downtime. Problem resolution must be applied when the resolution/solution is found and not wait to be applied during a scheduled routine update.

Confirmed—Juvare performs regularly scheduled software maintenance twice per month during pre-arranged maintenance windows usually on Wednesday morning. Occasionally, Juvare will briefly take the site offline for more comprehensive maintenance. All regular site maintenance is announced in advance and Juvare staff is reachable during the maintenance window should any client need arise. Emergency interventions for system problems will be addressed upon discovery and every effort will be made to ensure rapid resolution to the issue.

4.1.12 The successful bidder must include three (3) levels of training.

Initial training: The successful bidder must provide on-site training on the use of the bidder's service/system for up to three hundred fifty (350) administrators at a minimum. This training must be completed within thirty (30) calendar days of contract award effective start date. Training facilities with computers will be provided by the State in or near Charleston, WV. Training materials will become the property of the State to copy at will for additional users.

Confirmed—We will continue to work with WV DHHR and provide any additional training that may be needed, but since we are the existing vendor for the WVPH ALERT system and if we are chosen as the new vendor, this requires no system modification, no effort, and no additional cost to WV DHHR to train all the administrators.

4.1.12.1 Update training: The successful bidder must provide training when updates or changes are made to the system, if those changes mandate new ways to operate the systems. This training can be provided via web training, CD, DVD, or other electronic media as approved by the Agency.

Confirmed—We will continue to work with WV DHHR and provide any additional training via web training or DVD for major upgrades or new ways to operate the system.

4.1.12.2 New User training. The successful bidder must provide a way for later added users to obtain Initial training, such as web training, CD, DVD, or other electronic media as approved by the Agency.

Confirmed—We will continue to work with WV DHHR and provide any additional training via web training or DVD for new users.

4.1.13 WVDHHR's Responsibilities To Contract:
4.1.13.1 The Center for Threat Preparedness will collaborate with the vendor and will serve as the point of contact. Additionally, they will:

4.1.13.1.1 Meet by the end of Week 1 of the first year of the contract with the vendor to develop project plan.

Confirmed—We will support immediately meeting with the State to develop the project plan.

4.1.13.1.2 Provide vendor with contact person/address/phone number for each LHD and other agency that has call groups to be loaded into system (or built).

Confirmed—We will work with WV DHHR to ensure that all requisite contact information will be included in the system. As the existing vendor for the WVPH ALERT system, it is expected that nearly all of this information is already present, and simply needs cursory review for completeness.

4.1.13.1.3 Provide location for training, with computers for use.

Confirmed—We will continue to work with WV DHHR and provide any additional training onsite, via web training or DVD for new users.

4.1.13.1.4 Meet quarterly with vendor to discuss project status, receive updates on technological or contract upgrades/revisions.

Confirmed—We will support meetings with WV DHHR at least quarterly to discuss project status and updates.

4.1.13.1.5 Provide drills/exercises to test system's performance.

Juvare Charge, provides all clients the opportunity to participate in a Juvare-facilitated national exercise, designed to help clients test their internal policies and procedures, as well as the CORES RMS system itself.

4.1.14 Deliverables, Scope of Work and Timeframe:

4.1.14.1 YEAR 1

4.1.14.1.1 Deliverable 1: By the end of Week 1 of the first year of the contract: Vendor will meet with CTP to set up implementation strategy. This portion of the deliverable can be accomplished by in-person meeting, a telephone conference call, or "web ex" type presentation. Vendor will then meet with Notification System Workgroup (State developed) to initiate implementation process. As in person meeting must be conducted in Charleston, WV with CTP staff. Implementation process. An in-person meeting must be conducted in Charleston, WV with CTP staff.

Confirmed—We will maintain WVPH ALERT in full ready state, including 24x7 monitoring, for the duration of the contract. We will deliver support for use during notifications, information exchange, and drills as well as regular system upgrades, and perform maintenance as required.

4.1.14.1.2 Deliverable 2: By end of Week 4 of the first year of the contract: Vendor will develop/implement State and Local Health components of Notification System. This will include development of capacity to push messages/information to State and Local Health- developed call groups as well

as internal and overall message management capability. This also includes the provision of the vendor-supplied API Protocol, described under Section 4.1.9.11.

Confirmed—We will deliver technical assistance, as needed, to support WV DHHR and local staff. We confirm the average 15 hours per month estimate.

4.1.14.1.3 Deliverable 3: By end of Week 4 of the first year of the contract: Vendor will complete data transfer (call groups) from incumbent system -OR- complete building and import of new State and LHD call groups into Notification System.

Confirmed—As the existing vendor for the WVPH ALERT system, data transfer would not be necessary which would require no modifications, no effort, and no cost.

4.1.14.1.4 Deliverable 4: By end of Week 4 of the first year of the contract: Vendor will develop initial user training curriculum/delivery mechanism and complete initial user training for State and LHDs as described above in this document in Section 4.1.12.

Confirmed—As the existing vendor for the WVPH ALERT system, initial user training would not be necessary which would require no modification, no effort, and no cost.

4.1.14.1.5 Deliverable 5: By end of Week 4 of the first year of the contract: Vendor will complete "dry run" performance tests and correct any residual issues. This will be executed and evaluated on site in Charleston, WV. System will be initialized and placed in-service. Vendor presence will be required in Charleston, WV during the performance test and initiation of the system.

Confirmed—As the existing vendor for the WVPH ALERT system, a "dry run performance testing would not be necessary which would require no modification, no effort, and no cost.

4.1.14.1.6 Deliverable 6: Week 4 - through the end of contract: Vendor will maintain system in "ready" state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.

Confirmed—As the existing vendor for the WVPH ALERT system, the system will remain in a "ready" state which would require no modification, no effort, and no cost.

4.1.14.1.7 Deliverable 7: Week 4 – through the end of contract: Technical assistance will be performed as needed upon contact by State or Local staff at an estimated **15** hours of technical assistance per month.

Confirmed—As the existing vendor for the WVPH Alert system, technical assistance will

continue to be performed as needed for up to 15 hours of technical.

4.1.14.2   Optional Renewal YEAR 2

4.1.14.2.1   Deliverable 1: By end of month 3 of the second year of the contract: Vendor will develop user update training curriculum/delivery mechanism for all users as described above in this document in Section 4.1.12. Training to be provided via 2 "web ex" presentations or 1 reproducible DVD.

Confirmed—We will provide training via two (2) WebEx presentations or one (1) reproducible DVD.

4.1.14.2.2   Deliverable 2: By end of month 3 of the second year of the contract: Vendor will complete new user training for State and LHDs as described above in this document in Section 4.1.12. Training to be provided via 2 "web ex" presentations or one reproducible DVD.

Confirmed—We will provide training via two (2) WebEx presentations or one (1) reproducible DVD.

4.1.14.2.3   Deliverable 3: Throughout contract period: Vendor will maintain system in "ready" state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.

Confirmed—The system will be maintained in "ready" state.

4.1.14.2.4   Deliverable 4: Throughout contract period: Technical assistance will be performed as needed upon contact by State or Local staff at an estimated **10** hours of technical assistance per month.

Confirmed—We will provide up to 10 hours of technical assistance, as needed.

4.1.14.3   Optional Renewal YEAR 3

4.1.14.3.1   Deliverable 1: By end of month 3 of the third year of the contract: Vendor will develop user update training curriculum/delivery mechanism for all users as described above in this document in Section 4.1.12. Training to be provided via 2 "web ex" presentations or 1 reproducible DVD.

Confirmed—We will provide two (2) WebEx presentations or one (1) reproducible DVD.

4.1.14.3.2   Deliverable 2: By end of month 3 of the third year of the contract: Vendor will complete new user training for State and LHDs as described above in this document in Section 4.1.12. Training to be provided via 2 "web ex" presentations or one reproducible DVD.

Confirmed—We will provide two (2) WebEx presentations or one (1) reproducible DVD.

4.1.14.3.3   Deliverable 3: Throughout contract period: Vendor will maintain system in "ready" state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.

Confirmed—We will maintain the system in a "ready" state.

4.1.14.3.4   Deliverable 4: Throughout contract period: Technical assistance will be performed as needed upon contact by State or Local staff at an estimated **5** hours of technical assistance per month.

4.1.14.4   Optional Renewal YEAR 4

4.1.14.4.1   Deliverable 1: By end of month 3 of the fourth year of the contract: Vendor will develop user update training curriculum/delivery mechanism for all users as described above in this document in Section 4.1.12. Training to be provided via 2 "web ex" presentations or 1 reproducible DVD.

Confirmed—We will provide up to five (5) hours of technical assistance as needed.

4.1.14.4.2   Deliverable 2: By end of month 3 of the fourth year of the contract: Vendor will complete new user training for State and LHDs as described above in this document in Section 4.1.12. Training to be provided via 2 "web ex" presentations or one reproducible DVD.

Confirmed—We will provide two (2) WebEx presentations or one (1) reproducible DVD.

4.1.14.4.3   Deliverable 3: Throughout contract period: Vendor will maintain system in "ready" state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.

Confirmed—We will maintain the system in a "ready" state.

4.1.14.4.4   Deliverable 4: Throughout contract period: Technical assistance will be performed as needed upon contact by State or Local staff at an estimated **5** hours of technical assistance per month.

Confirmed—We will provide up to five (5) hours of technical assistance as needed.

4.1.14.5   Vendor should provide with its bid a copy of any hardware or software licensing and/or support terms and conditions to which the State of West Virginia or the Agency must agree to or accept, either in writing or digitally, in order to order and receive the commodities or services offered as part of this Contract. Written terms will be required prior to the award of any contract resulting from this solicitation. Failure to provide additional terms and conditions may result in disqualification of the vendor's bid.

Please refer to Attachment A, Software Services Agreement.

Contract Award:

5.1   Contract Award: The Contract is intended to provide Agency with a purchase price for the Contract Services. The Contract shall be awarded to the Vendor that provides the Contract Services meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

Bids will be evaluated based on Total Bid Amount. Contract Award will be made for Year 1 costs only, with subsequent Years' costs added only upon agreed and approved renewal change order.
Confirmed—Please refer to the Pricing Pages for cost details.

5.2   Pricing Page: Vendor should complete the Pricing Page by filling out the cost of each deliverable listed on the Pricing Pages per Year and any deliverables with a zero price should be listed as such. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Vendor should type or electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document.
Confirmed— The pricing pages have been submitted electronically through wvOASIS.

6.   **PERFORMANCE:** Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.
Confirmed.

7.   **PAYMENT:** Vendor shall invoice for Contract Service Deliverables provided in arrears and shall submit no more than one invoice monthly. Agency shall pay upon receipt of invoice as shown below and on the Pricing Pages for all Contract Service Deliverables performed and accepted under this contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.
Year 1, Deliverables 1 – 5: Total cost of completed Deliverables accepted by Agency.
Year 1, Deliverables 6 – 7: Monthly cost of Deliverables accepted by Agency.

Year 2, Deliverables 1 – 2: Total cost of completed Deliverables accepted by Agency.
Year 2, Deliverables 3 – 4: Monthly cost of Deliverables accepted by Agency.

Year 3, Deliverables 1 – 2: Total cost of completed Deliverables accepted by Agency.
Year 3, Deliverables 3 – 4: Monthly cost of Deliverables accepted by Agency.

Year 4, Deliverables 1 – 2: Total cost of completed Deliverables accepted by Agency.
Year 4, Deliverables 3 – 4: Monthly cost of Deliverables accepted by Agency.

Vendor must submit invoices to the Agency at the address on the face of the purchase order

labeled "Invoice To" pursuant to the terms of the contract. The invoices must be in a form approved by the Agency and shall include a monthly activity log. Vendor will be responsible for payment of all subcontracts, staff, and any other support staff contracted to provide services. State law forbids payment of invoices prior to receipt of services. The Agency reserves the right to reject any or all invoices for which proper documentation has not been provided. Vendor will be notified of deficiencies within fifteen (15) days of receipt of the invoice.

Confirmed.

8. **TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.

Confirmed.

9. **FACILITIES ACCESS: Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:**

   9.1. Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.

   9.2. Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.

   9.3. Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.

   9.4. Anyone performing under this Contract will be subject to Agency's security protocol and procedures.

   9.5. Vendor shall inform all staff of Agency's security protocol and procedures.
   Confirmed—We will comply with these requirements.

10. **VENDOR DEFAULT:**

   10.1. The following shall be considered a vendor default under this Contract.

      10.1.1. Failure to perform Contract Services in accordance with the requirements contained herein.

      10.1.2. Failure to comply with other specifications and requirements contained herein.

      10.1.3. Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

      10.1.4. Failure to remedy deficient performance upon request.

10.2. The following remedies shall be available to Agency upon default.

    10.2.1. Immediate cancellation of the Contract.

    10.2.2. Immediate cancellation of one or more release orders issued under this Contract.

    10.2.3. Any other remedies available in law or equity

In the event of an inconsistency in the terms of this Section 10 and the terms in the Software Services Agreement attached hereto , the terms in the Software Services Agreement, including, without limitation, the Attachment 1 - Provisions Required for Federally Funded Procurements incorporated therein, shall control for purposes of the inconsistency.

11. Miscellaneous

11.1. Contract Manager: During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

Contract Manager: Ann Marie Brown
Telephone Number: 336 689 5960
Fax Number: 470 279 6025
Email Address: annmarie.brown@juvare.com

Attachment A – Software Service Agreement

CFI

SOFTWARE SERVICES AGREEMENT

In the event of an inconsistency in the terms of this Agreement and the terms in the Attachment 1 - Provisions Required for Federally Funded Procurements, the terms in the Attachment 1 - Provisions Required for Federally Funded Procurements shall control for purposes of the inconsistency.

This **Software Services Agreement** (the "**Agreement**"), effective _____, 2020 ("**Effective Date**"), is by and between the **State of West Virginia Department of Health and Human Services** (hereinafter referred to as "Client"), a State of West Virginia government department having its principal place of business located at State Capitol Complex, Bldg. 3, Room 206, Charleston, West Virginia 25305, and **Collaborative Fusion, Inc.** ("**CFI"**), a Delaware corporation with its principal place of business located at 235 Peachtree Street NE, Suite 2300, Atlanta, Georgia 30303. The following Exhibits are attached hereto and incorporated herein as part of this Agreement:
1. Attachment 1 - Provisions Required for Federally Funded Procurements
2. Exhibit A – Definitions
3. Exhibit B – Third-Party Functionality Used to Support the Subscription
4. Exhibit C – Fees and Payment Terms
5. Exhibit D – Description of Hosted Services
6. Exhibit E – Description of Support Services

Upon execution of this Agreement by both parties, Client understands and acknowledges: (i) no new Software is being provided to Client pursuant to this Agreement as Client already received a subscription based access to the CORES RMS™ Software identified on <u>Exhibit C</u> to this Agreement and this Agreement is initially only for a one (1) year renewal of the Software-as-a-Services ("SaaS") based subscription to the CORES RMS Software; and (ii) any previously executed agreements, including, without limitation, the Contract – Order Number CCT 0506 0506 BPH1500000001, dated 2015-06-18 (collectively, the "Prior Agreement") by and between the parties for the CORES RMS Software Subscription and related services thereto shall be terminated and replaced by this Agreement in all effects. Any payment obligations set forth in such Prior Agreements shall remain due and payable and shall be survive such termination.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise specifically stated in this Agreement or in another Exhibit hereto, the capitalized terms used in this Agreement shall have the meanings set forth in <u>Exhibit A</u> to this Agreement.

2. **Subscription.**
2.1. <u>Subscription</u> Grant. Subject to the terms and conditions of this Agreement, CFI hereby grants to Client a non-exclusive, non-transferable right to Use the Software identified on <u>Exhibit C</u> on a Software-as-a-Services ("SaaS") subscription basis without right of sublicense solely for Client's internal purposes for the stated Term. This Subscription does not transfer a license, title, or any proprietary or Intellectual Property rights to the Software, Documentation, or any Trade Secrets, copyrights, patents, or trademarks, embodied therein or used in connection therewith. CFI or its third-party service providers retain all right, title, and interest in and to the original, and any copies, of the Software and Intellectual Property rights therein.
2.2. <u>Change in Scope of Subscription</u>. The scope of this Subscription may be changed by a supplemental written agreement or amendment executed by both parties; for clarification purposes only, additional software products may be included in the Subscription, or the Subscription may be used for additional purposes beyond those described in 2 above.

2.3. <u>Client Responsibilities</u>.
(a) Client agrees not to, and shall not allow any of its authorized Users, employees, agents, representatives, affiliates or other third party to, (i) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any Source Code or underlying ideas, algorithms, file formats or programming, or interoperability interfaces of the Software or any portion thereof, (ii) sublicense, assign, transfer, rent, or sell use of the Subscription or the Software therein, (iii) remove any product identification, copyright, or other notices, (iv) develop any derivative work based upon the Subscription, Software, Documentation, or any Confidential Information, (v) provide, disclose, divulge or make available to, or permit use of the Subscription or the Software therein by any third party without CFI's prior written consent, or (vi) except as specified in the applicable user documentation, modify or incorporate the Subscription or the Software therein into or with other software. Client is responsible for the use and access of its Users, employees, agents, representatives, affiliates or other third party.
(b) <u>Login Credentials</u>. Client shall be solely responsible for all security regarding its User IDs, logins, passwords, and connectivity. Should security of any of these items be compromised, Client is obligated to immediately contact CFI to have such User IDs or passwords changed to prevent malicious use or any use in violation of this Agreement of the Subscription or Software. Further, if any of these items are compromised and used for malicious purposes, Client is responsible for all content and fees, including notification charges for messages sent using the compromised account information.
(c) <u>Third Party Technology Licenses</u>. Client acknowledges and agrees that, (a) in order to be executed, the Subscription require certain third-party technology, described in <u>Exhibit B</u> hereof, (b) CFI does not have the right to grant sublicenses to such third-party technology, and (c) prior to use of the Subscription, the CLIENT will, if necessary, obtain the licenses from the vendors of such third-party technology.
(d) <u>Client Data</u>.

(i) _Entry of Client Data_. Client's Users using the Subscription shall be solely responsible for all data entry, error correction, and the accuracy of the data related to themselves while using the Subscription. Notwithstanding the foregoing and only if the Services purchased by CLIENT includes such service, CFI shall use its reasonable efforts to verify, on a routine basis through external databases, the accuracy of credential information inputted into the Software by the Users.

(ii) _Ownership_. Information entered by Users into the Software (collectively "Client Data") will remain the property of Client. The Client Data is owned and controlled by the Client. CFI shall have the right to access and use the Client Data to perform its obligations in this Agreement, so long as it maintains the confidentiality thereof. If included as part of the Services, CFI may access the Client Data for the purpose of verifying through external databases, the accuracy of credential information data, so long as it maintains the confidentiality thereof.

(iii) _Schema_. The schema relating to the storage and organization of the Client Data is owned and controlled by CFI. Client agrees and acknowledges that the Client has no right to the schema relating to the storage and organization of the Client Data. Client further agrees and acknowledges that the Client has no right to receive the Client Data in a format organized or stored according to the schema.

(iv) _Return of Client Data_. Upon the expiration of the Subscription or the termination of this Agreement, whichever is earlier, Client may request an export by CFI of the Client Data. The costs associated with exporting the Client Data will paid by the Client at CFI's then-current rates for data extraction services at the time of the export.

(e) _Notifications_. Client is responsible for all notifications transmitted through the Subscription and the Software thereto. Client acknowledges that all content, data, text, messages and other material contained in a voice, text, e-mail, Short Message Service ("SMS"), or other telephonic or electronic Notification ("Content") is the sole responsibility of the Client. Client is solely responsible for the integrity and quality of the Content. Client will not send any notifications unless (i) (a) the recipient of the message is an employee of Client sending the message (b) is using a device owned or paid for by the Client sending the message (c) using a personal device and the User has given the Client permission to communicate with them via the device or (d) Client has obtained "opt-in" consent from the User and/or recipient; (ii) applicable to sending SMS only, CFI provides Users with a mechanism for opting out of receiving messages, including information on how to "opt-out" through the Software within the Subscription. Users can opt-out of receiving messages from the Client by sending a message to the Client Administrator with "unsubscribe" in the text or removing themselves from the notifications; (iii) Client represents and warrants that it will send notifications in accordance with this Agreement; (iv) Client has determined that the phone numbers to be called exclude emergency numbers and other numbers that may not be called using an automated system under applicable law; (v) by way of example, and not as limitation, Client agrees to (a) comply with all federal, state and local laws, including but not limited to, the Fair Debt Collection Practices Act, Federal Trade Commission or any other federal or state regulatory authority; (vi) and that Client will not: (a) violate any regulation of the U.S. Securities and Exchange Commission or any stock exchange, infringe one another's rights in Intellectual Property, is invasive of another's right to privacy, or violate any privacy laws, privacy policies of Client or any other third parties or do anything that would justify a complaint to the Federal Communications Commission; (b) engage or facilitate any illegal, unethical, deceptive or misleading practices in connection with the use of the Subscription and Software thereto, including but not limited to, creating a false id CLIENT or forged

email, phone or message header or otherwise attempt to mislead others as to the id CLIENT of the sender or the origin of the message; (c) use the Subscription and Software thereto in connection with any junk email, junk phone messages, spamming or any unsolicited messages (commercial or otherwise); (d) provide, or knowingly allow any third parties to provide, content or other material to be transmitted in connection with or through the Subscription and Software thereto which: is defamatory, libelous, obscene, pornographic or is harmful to minors; promotes violence, discrimination, or illegal activities; transmit any material that contains viruses, worms, cancelbots or any other harmful code or computer programs designed to disrupt the functionality of any computer software or hardware or telecommunications equipment; or (e) violate any law, statute, ordinance or regulation, (including without limitation the laws and regulations governing export control); and (vii) Client is allowed to send SMS in text format only. No binary SMS messaging is allowed. The CLIENT acknowledges that all Content, data, text, messages and other material contained in a voice or text Notification sent by the CLIENT through the Subscription and Software thereto are the sole responsibility of the CLIENT. Under no circumstances will CFI or any of its Providers be responsible for any loss, damage, or liability arising out of the Content of any notification, including any mistakes contained in the Content or the use or transmission of the Content.

(f) _Background Services_. Client warrants and certifies that it will request, receive, disseminate and otherwise use the background screening services including, but not limited to, criminal record history, motor vehicle records, employment verification, education verification, and social security number verification (collectively "Background Services") in compliance with all applicable federal, state and local statutes, rules, codes and regulations, including but not limited to, the Fair Credit Reporting Act ("FCRA") and its state equivalents, the Driver's Privacy Protection Act 18 U.S.C. §2721 et seq., ("DPPA") and its state equivalents, the Gramm-Leach-Bliley Act ("GLB") and its state equivalents, and including any changes, supplements or amendments to such statutes, rules, codes and regulations as well as any case law interpreting such statutes, rules, codes and regulations (collectively referred to herein as "The Laws"). Client accepts the responsibility of understanding and for staying current with all applicable laws, specific state forms, certificates of use or other documents or agreements including any changes, supplements or amendments thereto imposed by the states (collectively referred to as "Specific State Forms") from which it will order Background Services or materials. The Client hereby certifies that it has filed or will file prior to use all applicable Specific State Forms required by individual states and that if it receives Background Services or materials from a State requiring a state form, it will execute a copy of the appropriate State agreements and return same to CFI. Client warrants and certifies that it is a permissible purpose under the FCRA for which the Background Services were furnished; it has established, will implement and comply with reasonable procedures designed to ensure that the information supplied by CFI and CFI's partners is only distributed to an end-user with a permissible purpose including exercising reasonable efforts to verify the id of that user; obtain a certification from the end-user of the purposes for which the report will be used, and a certification that the report will not be used for any other purpose. Client shall, at Client's sole cost and expense, defend, indemnify and hold CFI, its affiliates and each party's employees, officers, directors, agents, representatives and contractors harmless from and against any and all claims and damages that arise from (a) infringement or contributory infringement to the extent caused in whole or in part by Client, its Authorized Users, agents, representatives, employees or by third parties under Client's direction; (b) additions, changes or modifications to the Services

and/or Software therein by or on behalf of Client; (c) incorporation of the services or any component thereof into any other Client product or process; (d) use of the services by Client other than as permitted by this Agreement or applicable Exhibit hereto; (e) Client's breach of any of its obligations under this Agreement or applicable Exhibit hereto; (f) any personal injury or property damage caused by Client; (g) Client's breach of any national, federal, state or local law or regulation in connection with Client's use of the System or services; (h) Client's performance of services for Client's clients; (i) claims against CFI by Client's clients, customers or third parties that Client communicates with using the services; and (j) libelous, slanderous, indecent or other statement concerning or arising out of Client's statement or publications to or about individuals or business entities.

3. **Services**. During the Term and provided Client is not in violation of this Agreement, including, without limitation, payment of the applicable Fees for the Term, CFI will provide the following services:

3.1.   Activation and Access. Upon CFI's receipt of the Client's payment of the Fees set forth on Exhibit C, CFI will activate and provide the Client with access to Use the Subscription.

3.2.   Hosting Services. CFI will provide the Hosted Services, as set forth in Exhibit D hereto, for the Subscription to the Software during the Standard Business Hours.

3.3.   Support Services. CFI will provide Support Services, all as further defined in Exhibit E hereto, for the Subscription and the Software therein during the Standard Business Hours consisting of the following: (i) CFI will use reasonable efforts to maintain the Software to comply with the applicable Documentation in all material respects, and (ii) if and when made generally available through Support Services to CFI's other customers receiving Support Services, providing subsequent Software Updates for Use consistent with this Agreement and CFI's then-current policies. All Software Updates received by Client shall be subject to the terms of this Agreement. Support Services shall not include, and CFI shall not be responsible for, (i) failures of the Software to perform consistent with the Documentation, specifications, requirements and other details set forth in this Agreement or any subsequent amendments or quotes hereto in all material respects resulting from or caused by Client, Client's hardware and equipment, Client's connection to the Software, third party service providers, including, without limitation, communications services providers, or otherwise disclaimed elsewhere in this Agreement; (ii) any latency or downtime due to acts or omissions by the Client, its Administrators, or Users; (iii) or acts or omissions of unauthorized third parties and/or third parties over which CFI has no control; (iv) Internet latency, failures, or outages; (v) problems associated with the computer hardware and software systems used by the Client or its Administrators.

3.4.   Background Services. If Background Services are included on the Services set forth on Exhibit C, CFI shall Beginning on the effective date of this Agreement, CFI shall maintain and shall cause the CLIENT to maintain all records related to each request made to for Background Services for a (3) year period (and such period as prescribed by law) from the date each request was made. The information retained and reports pursuant to this Section shall include, but not be limited to, the: request date, requested individual, requestor, and permissible purpose for each report and any other information sufficient to verify that the request and use of the report complies with the terms of this Agreement and the FCRA.

4. **Fees and Payment Terms.**

4.1   Payment; Late Payment. All amounts are due and payable by Client to CFI as set forth in Exhibit C hereto (unless alternative payment terms are mutually agreed up on by the parties). Any payments not received by CFI within thirty (30) days after the date of the applicable invoice (or as otherwise due pursuant to Exhibit C or an applicable Quote) will be considered past due and will accrue a late fee of 1.5% (or, if less, the highest amount allowed by applicable law) for failure to pay such invoiced amount within thirty (30) days of the applicable invoice date and for each thirty (30) day period thereafter that such amounts remain past due and owing.

4.2   Travel Expenses and Additional Charges. To the extent that the Services provided hereunder may require CFI to travel, Client shall pay Travel Expenses reasonably incurred by CFI in connection with such travel. CFI shall invoice Client for Travel Expenses on a monthly basis as incurred. Travel Expenses are in addition to any charges set forth in this Agreement or any Quote hereto. Other additional charges may be required should Client elect to: (a) additional Services beyond what has been agreed to herein; (b) increase the use limitations on the Software; (c) increase the number of non-production instances of the Software; (d) additional Software; (e) upon exercise of an Option Period; (f) increase storage capacity; or (g) as otherwise required by the Agreement.

4.3   (Omitted.)

4.4   Suspension of the Software, Services and Support Services. Without limitation as to any other rights or remedies of CFI under this Agreement, CFI reserves the right to immediately suspend Client's access to and use of the Services (including, without limitation, to the Software and the Support Services), without notice to Client, if any amounts payable to CFI are past due and not paid within the time frame set forth in Section 5.1 or elsewhere in this Agreement or an Exhibit, Statement of Work or Quote hereto, as applicable. Client agrees that CFI shall have no liability to Client, and Client waives any claim or action against CFI in the event of suspension or termination of access to or use of the Services for Client's failure to timely pay charges. Client's payment obligations shall continue during any period of suspension pursuant to this Section.

4.5   Taxes. All amounts charged by CFI are exclusive of, do not include, and Client shall be solely responsible for payment of, all sales, excise, use, value added, or other taxes, tariffs and duties that may be applicable to the Services, except for any taxes based upon CFI's net income, assets or worth. CFI shall invoice Client for amounts it is obligated to collect or is allowed to recover as such taxes, tariffs and duties. Client's obligations for the payment of taxes, tariffs and duties payable hereunder shall survive the expiration or termination of this Agreement. If the transaction or the Client is exempt from taxes, CFI will not charge tax provided that Client timely provides CFI with a valid exemption certificate or other evidence of such exemption in a form reasonably acceptable to CFI. To the extent permitted under applicable laws and regulations, CFI will not charge tax on transactions for the electronic delivery of the Services.

5. **Ownership of Intellectual Property.** The Software, including, without limitation, the CORES Platform, and Documentation, and all copies thereof, shall remain the exclusive property of CFI and/or its third-party licensors. All applicable Intellectual Property rights, including, without limitation, copyrights, trademarks, logos, and patents, shall remain vested in CFI and/or its third-party licensors. Client shall not claim, register, alter or modify, any interest in such Intellectual Property rights, including, without limitation, copyrights, trademarks, logos, and patents, nor shall Client nor attempt to do any of the foregoing. Client shall not translate any of the CFI trademarks into any other language or alphabet. Notwithstanding the foregoing, Client shall always have title to data input and output arising out of the use of the Software, and any computer programs developed by or for Client using output of the Software as input to another source, and which do not include any logic and code of the Software, and such shall remain the

exclusive property of the Client. Client acknowledges and agrees that CFI may seek equitable relief at any time to remedy a violation or threatened violation of the restrictions set forth herein regarding the use and protection of the Software and Documentation.

6. Warranties and Disclaimers

6.1 <u>Limited Warranty</u>. During the term of this Agreement, CFI and its Providers warrant only to Client that the Subscription and Software will be accessible through the Internet and that CLIENT's use of the Software and Subscription will not be materially limited. CLIENT'S SOLE AND EXCLUSIVE REMEDY, AND CFI'S SOLE AND EXCLUSIVE LIABILITY, FOR BREACH OF THIS WARRANTY WILL BE REACTIVATION OF THE SUBSCRIPTION TO THE SOFTWARE UPON CFI'S RECEIPT OF WRITTEN NOTIFICATION FROM CLIENT THAT SUCH ACCESS IS NOT WORKING OR IN COMPLIANCE OR THAT IT IS LIMITED. CFI AND ITS PROVIDERS DO NOT WARRANT THAT THE SUBSCRIPTION, SOFTWARE THERETO, SERVERS, AND/OR TELEPHONY INFRASTRUCTURE WILL MEET CLIENT'S REQUIREMENTS, WILL BE UNINTERRUPTED OR ERROR-FREE, OR WILL MEET ANY PARTICULAR CRITERIA OR PERFORMANCE, QUALITY, ACCURACY, PURPOSE, OR NEED. Because the foregoing Limited Warranty relates to the availability of the Software, which may be used on a daily basis, no action for breach of such Limited Warranty may be commenced unless Client has provided CFI with written notice and an opportunity to cure within the thirty (30) calendar days immediately following the date of the alleged breach.

6.2 <u>Disclaimer</u>. EXCEPT FOR THE LIMITED EXPRESS WARRANTY PROVIDED ABOVE, CFI AND ITS PROVIDERS MAKE NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ESPECIALLY RELATING TO THIRD PARTY INTEGRATIONS DATA ACCURACY. CLIENT ACKNOWLEDGES THAT NO REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THIS AGREEMENT HAVE BEEN MADE RESPECTING THE SOFTWARE, THE SUBSCRIPTION, OR THE SERVICES TO BE PROVIDED BY CFI AND ITS PROVIDERS, AND THAT CLIENT HAS NOT RELIED ON ANY REPRESENTATION NOT EXPRESSLY SET OUT HEREIN. FURTHER, CLIENT ACKNOWLEDGES AND AGREES THAT THE INTERNET IS NOT ESTABLISHED OR MAINTAINED BY CFI, THAT CFI HAS NO CONTROL OVER THE INTERNET, AND THAT CFI IS NOT LIABLE FOR THE DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET WHICH MIGHT RESTRICT OR PROHIBIT THE OPERATION OF THE SOFTWARE, THE SUBSCRIPTION, OR THE PROVISION OF THE SERVICES. ADDITIONALLY, ALL BACKGROUND SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, INCLUDING ANY WARRANTIES OR REPRESENTATIONS OF ACCURACY OR COMPLETENESS. NEITHER CFI OR ITS THIRD PARTY SUPPLIERS OR PROVIDERS MAKE REPRESENTATIONS, COVENANTS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO THE SERVICES OR MATERIALS DELIVERED OR THE MEDIUM OF DELIVERY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF CONDITION, QUALITY, DURABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IN RESPECT OF ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE. NEITHER CFI NOR ITS THIRD-PARTY SUPPLIERS AND/OR PROVIDERS SHALL HAVE ANY LIABILITY FOR CONCLUSIONS REACHED FROM USE OF THE SERVICES OR MATERIALS. CFI and its third party suppliers / providers shall not be liable to the CLIENT, the user, or to anyone else for any loss or damage of any kind, including without limitation, special, indirect, incidental or consequential damages, with respect to the Background Services or materials delivered or the medium of distribution, regardless of whether such liability is based in tort, contract or otherwise from the use of the Background Services. Neither CFI nor its third party suppliers / providers shall be liable to the CLIENT for any loss, injury, claim, liability or damage of any kind resulting in any way from (a) errors in or omissions from the Background Services or materials available or not included therein, (b) the unavailability or interruption of the Background Services or materials, (c) use of the Background Services or materials (regardless of whether the Client received any assistance from CFI or any supplier and/or provider in using the Background Services or materials), (d) the content of the Background Services, (e) use of the Background Services or authorized printouts by an authorized individual, user or organization, authorized user or other third parties.

6.3 <u>Limitation of Liability</u>. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR ANY EXHIBITS OR ATTACHMENTS HERETO AND TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, CFI (INCLUDING ITS AFFILIATES) SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY EXHIBIT, QUOTES OR ORDERS HEREUNDER (HOWEVER ARISING, UNDER ANY THEORY INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, CONTRACT OR STRICT LIABILITY), INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR INTERRUPTED COMMUNICATIONS, LOST DATA, LOST REVENUE, LOST PROFITS, LOSS OF TECHNOLOGY, LOSS OF RIGHTS OR SOFTWARE OR SERVICES AND/OR DAMAGES THAT RESULT FROM INCONVENIENCE, DELAY OR LOSS OF USE OF ANY INFORMATION OR DATA OR OF THE SOFTWARE OR SERVICES, EVEN IF CFI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN. SUBJECT TO THE FOREGOING AND TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, FOR THIS AGREEMENT AND EACH QUOTE FOR SOFTWARE OR SERVICES HEREUNDER, IN NO CASE SHALL CFI'S (INCLUDING ITS AFFILIATES) MAXIMUM AGGREGATE LIABILITY DURING ANY TWELVE (12) MONTH PERIOD DURING THE TERM OF THIS AGREEMENT (THE FIRST OF WHICH SHALL COMMENCE ON THE EFFECTIVE DATE OF THIS AGREEMENT) UNDER ANY CIRCUMSTANCES EXCEED THE AMOUNTS ACTUALLY PAID TO CFI BY CLIENT PURSUANT TO THIS AGREEMENT DURING SUCH TWELVE (12) MONTH PERIOD (EXCLUDING TRAVEL EXPENSES). THE PARTIES UNDERSTAND AND AGREE THAT THE LIMITATION OF LIABILITY SET FORTH IN THIS AGREEMENT REPRESENTS A REASONABLE ALLOCATION OF RISKS, AND EACH PARTY EXPRESSLY CONSENTS TO SUCH ALLOCATION. CFI SHALL HAVE NO LIABILITY OF ANY KIND IN THE EVENT CLIENT'S RECORDS OR OTHER DATA SUBMITTED FOR PROCESSING ARE LOST OR DAMAGED.

6.4 <u>Limitation of Warranties</u>. Except the Limited Warranty in Section 6.1, Client acknowledges and agrees that CFI has made no agreements, representations or warranties other than those expressly set forth in this agreement.

7. Release and Indemnity

7.1. <u>Release from Liability</u>. CLIENT agrees to indemnify, defend, hold harmless, and release and forever discharge CFI (and its Providers, directors, officers, managers, employees, affiliates, successors, members, auditors, advisors, shareholders, and

assigns) from and against all losses, damages (including incidental and consequential damages), expenses (including court costs, reasonable attorneys' fees, interest expenses and amounts paid in compromise or settlement), suits, actions, claims, penalties, liabilities, demands, causes of action, or obligations, related to, caused by, arising from or on account of the activities of CLIENT or any other person, including but not limited to any claims asserted against CFI relating in any way to the provision of services or products, the performance of CFI's obligations, the services or products provided by CFI (except to the extent that such claims arise out of or result solely from the gross negligence or willful misconduct of CFI, its employees or agents), or the failure of CLIENT to comply with any covenant, provision, or agreement of CLIENT contained herein. The obligation of CLIENT to indemnify CFI shall also include, without limitation, claims relating to any modification to the Software or the Subscription by anyone other than a CFI employee or contractor.

7.2.   Release from Liability. CLIENT ACKNOWLEDGES THAT PERSONS OTHER THAN CFI MAY INTERFERE WITH THE PROPER FUNCTIONING OF THE SUBSCRIPTION AND THE SOFTWARE THERE, I.E. "HACK" THE SOFTWARE, AND THAT IT MAY BE DIFFICULT TO DETERMINE PRECISELY WHO TOOK SUCH ACTIONS OR WHEN THEY WERE TAKEN. CLIENT IS RESPONSIBLE FOR MONITORING THE USE OF THE SUBSCRIPTION AND THE SOFTWARE THEREIN ON A REGULAR BASIS TO BE CERTAIN THAT IT DOES NOT CONTAIN INAPPROPRIATE MATERIAL AND IS FUNCTIONING PROPERLY. IN THE EVENT CLIENT DISCOVERS ANY MATERIAL THAT SHOULD BE REMOVED FROM THE SUBSCRIPTION AND THE SOFTWARE OR THE CLIENT DATA THEREIN, IT WILL DO SO PROMPTLY OR, IF IT CANNOT DO SO, WILL IMMEDIATELY NOTIFY CFI IN WRITING.

8.   Confidential Information

8.1   Confidential Information Defined. During the Term of this Agreement and in connection with each party's performance of their respective duties and obligations hereunder and thereunder, each party will disclose to the other ("Disclosing Party") and the other party shall receive ("Receiving Party") certain Confidential Information of the Disclosing Party. The term "Confidential Information" shall mean any and all information that the Disclosing Party discloses to the Receiving Party in connection with or related to this Agreement, whether disclosed verbally, electronically, visually, or in a written or other tangible or intangible form, including, but is not limited to, trade secrets, pricing information, terms of this Agreement, customers, customer lists, Intellectual Property, computer programs, software, documentation, formulas, data, inventions, techniques, financial, marketing or product development plans, personnel, audit results, designs, performance data, as to CFI, the Software and any other deliverables (including, without limitation, data, information, computer code and reports) provided in connection with the Subscription, and, as to Client, the Client's Information, as well as any other information that the Disclosing Party clearly communicates to the Receiving Party as confidential.

8.2   Duties with Regard to Confidential Information. The Receiving Party agrees that it will only use the Disclosing Party's Confidential Information in the performance of its obligations hereunder or as otherwise expressly provided in this Agreement, and that it will only disclose the Disclosing Party's Confidential Information only to those of its directors, officers, employees, consultants, agents, independent contractors, and professional advisers who need to know such information and who are subject to written agreements with the Receiving Party sufficient to enable the Receiving Party to require such persons to comply with the Receiving Party's confidentiality obligations hereunder. The Receiving Party agrees that it will treat all of the Disclosing Party's

Confidential Information with the same degree of care (but no less than reasonable care) as it accords its own confidential information.

Notwithstanding the foregoing or CFI's obligations elsewhere in this Section, Client understands that CFI does not require any information for the performance of Services hereunder, and that CFI cannot guarantee the security of Client Information when stored on Client's applicable equipment and hardware or transmitted or accessible when using the internet or other services providers. CFI shall not be liable or responsible to Client or any other party for any losses, damages, claims, costs or other obligations arising out of or relating to any unauthorized access to, disclosure or use of information stored by Client on the System, including, without limitation, while such information is transmitted or accessible through the Software, the internet, or services providers. Additionally, CFI shall not be responsible for any breach of security or confidentiality caused by Client's failure to maintain the confidentiality and control of its user identification numbers or passwords related to its use of the Software provided hereunder.

8.3   Exclusions from Confidential Information. Confidential Information does not include information that (a) is or becomes generally available to the public other than as a result of an unauthorized disclosure by the Receiving Party or its personnel; (b) has been or is obtained by the Receiving Party from an independent source without accompanying obligations of confidentiality; (c) is independently developed by the Receiving Party without reliance in any way on the Disclosing Party's Confidential Information; or (d) has been approved for unrestricted release by the Disclosing Party in writing. Additionally, the Receiving Party may disclose the Disclosing Party's Confidential Information where the Receiving Party is required by law to disclose information that is otherwise Confidential Information, provided (to the extent not prohibited by law) the Receiving Party has first notified the Disclosing Party in writing as soon as is commercially reasonable of such requirement to disclose the Disclosing Party's otherwise Confidential Information in order to permit the Disclosing Party to seek confidential treatment of such information. Additionally, Client agrees to reimbursement CFI at its then current hourly rate for such services for the number of hours spent by CFI responding to legal requests for Client Information in CFI possession.

8.4   Protection of Confidential Information. Notwithstanding the "Dispute Resolution" Section of this Agreement, the Receiving Party acknowledges that the Disclosing Party shall have the right to take all reasonable steps to protect the Disclosing Party's confidential and proprietary interests, including, but not limited to, injunctive relief in a court of law or equity and any other remedies as may be available at law or in equity in the event the Receiving Party does not fulfill its obligations under this Section.

8.5   Survival of Confidentiality Obligations. Each party's obligations of confidentiality pursuant to this Section for all Confidential Information disclosed between the parties during the term of this Agreement shall survive the expiration or termination of this Agreement as follows: (i) for Confidential Information consisting of trade secrets, for so long as such information remains a trade secret of the disclosing party or for five (5) years following the expiration or termination of this Agreement, whichever is longer, (ii) for Confidential Information consisting of the disclosing party's Client information or CFI's suppliers' information, indefinitely, and (iii) for all other Confidential Information, for five (5) years following the expiration or termination of this Agreement.

8.6   Termination of This Agreement. Upon termination of this Agreement or upon the Disclosing Party's written request, the Receiving Party agrees to terminate all use of the Disclosing Party's Confidential Information and to either to return to the Disclosing Party all copies of the Disclosing Party's Confidential Information in its possession or under its control or to provide the Disclosing Party

with a written notice from one of the Receiving Party's authorized representatives certifying that all copies of the Disclosing Party's Confidential Information in the Receiving Party's possession or control have been destroyed; *provided, however*, the Receiving Party may (at its option, but not its obligation) keep a copy of the Disclosing Party's Confidential Information in its archives, and the provisions of this Section shall continue with respect to such Confidential Information.

9. Term and Termination

9.1   Term. The term of this Agreement and the Services and Subscription herein, shall commence on the Effective Date and, unless terminated as set forth in this Section, shall (i) continue for an initial period ending **one (1) year** thereafter (the "Initial Term"), and (ii) shall automatically terminate unless and until Client exercises an option year (each a "Option Period") on the anniversary of the Effective Date for additional successive one-year terms (each Option Period with the Initial Term shall be referred to as the collective "Term"); *provided*, *however*, in Client does not exercise an option year as set forth above, the Services and Software shall immediately terminate and Client and its Users shall immediately cease all use and access of the Services and Software as of the expiration date of the Initial Term or a then-current Option Period.

9.2   Termination for Cause. This Agreement or any Exhibit or Quotes hereto may be terminated as follows:

a.   by CFI upon the breach by Client of any of its payment obligations under this Agreement or any Quote or Exhibit hereto, which breach has not been cured within five (5) days after Client has received written notice thereof,

b.   by one party upon the breach by the other party of any of such other party's material obligations under this Agreement or any Quote or Statement of Work hereto that has not been cured within thirty (30) days after the breaching party has received written notice thereof (*provided, however*, that there shall be no cure period in the event of a breach by Client of its obligations related to CFI's Confidential Information and Intellectual Property rights), or

c.   by CFI if all or a substantial portion of the assets of Client are transferred to an assignee for the benefit of creditors or Client files or has filed against it a petition for liquidation under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days.

If the basis for termination for cause applies only to a specific Quote or Statement of Work, the non-breaching party may elect to terminate only the affected Quote and associated Statement of Work, in which case this Agreement and other Quotes will remain in full force and effect. A breach of the terms of this Agreement or a Quote by a User shall be deemed to be a breach of the terms of this Agreement by Client.

9.3   Effective Date of Termination for Cause. Termination for cause based upon 9.1(a) above shall be effective on the 6th day after Client received the original written notice of breach if cure is not made or if some interim arrangement has not been reached between the parties (and agreed in writing) during the five (5) day cure period. Termination for cause based upon 9.1(b) above shall be effective on the 31st day after the breaching party received the original written notice of breach if cure is not made or if some interim arrangement has not been reached between the parties (and agreed in writing) during the thirty (30) day cure period; *provided, however*, if a breach under 9.1(b) is not subject to cure (e.g., disclosure of a party's Confidential Information), termination for cause is effective immediately upon the party providing written notice of termination to the breaching party consistent with the notices provision of this Agreement. Termination for cause based upon 9.1(c) above shall be effective immediately after the assignment for benefit of creditors has been made or the filing of a petition for liquidation under bankruptcy or other insolvency laws and such have not been dismissed, dissolved or the petition lifted or stayed.

9.4   Termination for Convenience. If Client exercises its option to terminate this Agreement for its convenience pursuant to Attachment 1 and W. Va. CSR § 148-1-5.2(b), there shall be no refund to Client and all outstanding amounts due to CFI for any and all professional services that have been performed by CFI shall be paid to CFI pursuant to the payment terms in this Agreement.

9.5   Effects of Termination. Termination of this Agreement shall result in the termination of all outstanding Quotes, Statements of Work and Exhibits, and termination of all outstanding Quotes, Statements of Work and Exhibits shall result in the termination of this Agreement. Upon termination of this Agreement and/or any Quotes, Statements of Work and Exhibits for any reason, any amounts owed to CFI under this Agreement or any Quotes, Statements of Work and Exhibits, regardless of whether not yet due and payable, will be accelerated and deemed immediately due and payable (including, without limitation, the remaining balance of unpaid fees for professional services and Travel Expenses). All Subscriptions, including, without limitation, Services and all Software use and access, granted under this Agreement and all Quotes, Statements of Work and Exhibits hereto shall immediately terminate upon termination of this Agreement. All Subscriptions, including, without limitation, Services and all Software use and access, granted pursuant to an applicable Quotes, Statements of Work and Exhibits shall terminate upon the expiration or termination of the applicable Quotes, Statements of Work and Exhibits. Upon termination of this Agreement, CFI will immediately cease performing all Services and terminate Client's and its User access to the Software. CFI shall have no obligation for retaining or maintaining a copy of any such Client's Information or data from the Software following the date of expiration or termination of the Quotes, Statements of Work and Exhibits governing such information or (if sooner) the expiration or termination of this Agreement. CFI shall be entitled, without further liability, to destroy all such Client's Information or data from the Software following the date of expiration or termination of the Quotes, Statements of Work and Exhibits governing such information or (if sooner) the expiration or termination of this Agreement. If Client receives Hosted Services from CFI, the following termination provisions also apply upon termination of this Agreement for any reason:

a.   Client's access to the Hosted Services (including, without limitation, all access to the hosted environments and data) shall be suspended;

b.   Client shall immediately surrender to CFI any Internet protocol numbers, addresses or CFI-owned domain names assigned to Client in connection with the Hosted Services delivered hereunder;

c.   Unless other arrangements are requested by Client within five (5) days of the effective date of termination and provided Client has paid all outstanding amounts due to CFI under this Agreement, for the five (5) day period following the effective date of termination of this Agreement CFI shall provide Client with access to its data or information within the Hosted Services for Client to download the Client Data or information; and

d.   Any and all Client Data shall be overwritten, erased, encrypted or otherwise rendered unrecognizable upon the sooner to occur of (i) Client's confirmation that it has downloaded the Client Data or information, or (ii) expiration of the period of access as set forth in subsection (c) above, or (ii) thirty (30) days from the effective date of termination of this Agreement.

9.6   Other Termination/Suspension of Services. In addition to all other remedies to which it may be entitled hereunder, CFI shall have the right, without notice to Client, to immediately suspend the provision of any and all Software and Services hereunder,

including, without limitation, access to the Software and Support Services, in the event of (i) any breach or threatened breach of this Agreement or any Quotes, Statements of Work and Exhibits hereto by Client or its Users or contractors, (ii) any requirement or direction by any legal or regulatory body having jurisdiction over Client, CFI or its suppliers or third party service providers, or (iii) any change in law that renders CFI provision of the Software unlawful or otherwise non-compliant with applicable law. Client's payment obligations shall continue during any period of suspension pursuant to this Section. Client agrees that CFI shall have no liability to Client, and Client waives any claim or action against CFI, in the event of termination of access to the Software as provided in this Agreement. CFI shall make reasonable efforts to restart such access upon Client's cure or correction of the event of default or breach unless it has already terminated this Agreement or any Quotes, Statements of Work and Exhibits as provided hereunder. Client shall reimburse and pay to CFI all charges, expenses and fees incurred by CFI or payable by CFI to third parties as a result of such suspension of Software or reconnection/restart of such access to such Software.

9.7   Collection Costs. CFI shall be entitled to recover from Client any and all of CFI's attorneys' charges and expenses, including, without limitation, court costs, incurred by CFI in connection with any attempts to pursue collection of amounts owed by Client hereunder or otherwise incurred by CFI in enforcing of the terms and conditions of this Agreement or any Quotes, Statements of Work and Exhibits hereto.

9.8   Survival. The provisions of this Agreement that, by sense and context of the provision, are intended to survive performance by either or both parties shall also survive the completion, expiration, termination or cancellation of this Agreement.

9.9   The termination of this Agreement shall not relieve the Client of its obligation to pay any Charges and Fees incurred hereunder prior to the effective date of such termination or expiration or that result or arise from the termination of this Agreement (as provided in herein).

10. GENERAL PROVISIONS

a)   Entire Agreement; Waiver. This Agreement and the Schedules attached hereto constitute the entire agreement between the Parties and supersede all prior agreements, understandings and arrangements between the Parties with respect to the subject matter thereof. Any provisions, terms or conditions on Client's purchase orders which are, in any way, inconsistent with or in addition to the terms and conditions of this Agreement shall not be binding upon CFI and shall have no applicability hereunder. The failure of any Party to insist, in any one or more instances, upon the performance of any term or condition of this Agreement shall not be construed as a waiver or relinquishment of any right granted hereunder or the future performance of such term or condition.

b)   Governing Law. This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of West Virginia (United States of America) regardless of application of choice of law rules or principles. This Agreement expressly excludes the United Nations Convention on Contracts for the International Sale of Goods. The original language of this Agreement is English. In case of any discrepancies or conflicts between the English text version of this Agreement and any translation, the English version shall prevail.

c)   Assignment. Client may not assign or otherwise transfer, in whole or in part, or in any other manner, any rights, obligations, or any interest in or under this Agreement without the prior written consent of CFI and any purported attempt to do so will be null and void. A merger or other acquisition by a third party will be treated as an assignment. CFI may at any time and without Client's consent assign all or a portion of its rights and duties under this Agreement to a company or companies wholly owning, owned by, or in common ownership with CFI. This Agreement shall be binding on each party's successors and permitted assigns. Additionally, CFI may delegate the performance of certain Services to its Affiliates and third-party providers, provided CFI remains responsible to Client for the delivery of such Services and the compliance of such Affiliates and third-party providers with this Agreement.

d)   Change in Subcontractors. CFI has the right to change, modify and otherwise convert its services providers (including, without limitation, its affiliates) and subcontractors used to provide the Services and terms under which the Services are offered, provided that the basic functionality and quality of the Services will not be materially adversely affected.

e)   Interpretation. In the event of a conflict between this Agreement and the terms of any Exhibit, Statement of Work or Quote attached hereto, the terms of the Exhibit, Statement of Work or Quote shall prevail and control the interpretation of this Agreement. The Exhibits, Statement of Work or Quote, attachments, and schedules together with this Agreement shall be interpreted as a single document.

f)   Force Majeure. Excluding payment obligations, no breach of any obligation of a party to this Agreement or Exhibit, Statement of Work or Quote shall constitute an event of default or breach to the extent it arises out of a cause, existing or future, that is beyond the reasonable control and without negligence of the party otherwise chargeable with breach or default, including without limitation, flood, war, terrorists' acts, riot, theft, labor disputes, earthquake or natural disaster. Either party desiring to rely upon any of the foregoing as an excuse for non-performance, default or breach, shall, when the cause arises, give to the other party prompt notice of the facts that constitute such cause and when the cause ceases to exist, give prompt notice thereof to the other party.

g)   Limitations Period. Client agrees not to bring a legal action against CFI more than two years after the later of the date on which the cause of action accrues or the date on which the party discovered or with reasonable investigation should have discovered the cause of action.

h)   Prevailing Party. The prevailing party in any arbitration, suit, or action brought by one party against the other party to enforce the terms of this Agreement, any Exhibits or Quotes or Statement of Works hereto or any rights or obligations hereunder, shall be entitled to receive its reasonable costs, expenses, and attorneys' charges of bringing such arbitration, suit, or action.

i)   Independent Contractors. The parties are independent contractors, and no agency, partnership, franchise, joint venture or employment relationship is intended or created by this Agreement. Neither party shall make any statement, representation, warranty or other commitment on behalf of the other party.

j)   No Licenses. There are no licenses to the Software, express or implied, granted or provided under this Agreement. Neither party shall exceed the scope of the Subscription granted hereunder. CFI reserves all rights not specifically granted to Client.

k)   Notice. All notices shall be in writing and sent by certified mail (return receipt requested), overnight courier, or delivered personally to the addresses indicated on the first page of this Agreement for the applicable intended recipient, or such other address as either party may indicate by at least ten (10) days prior written notice to the other party. All notices to CFI shall be directed to the attention of the President/CEO of CFI, with a copy of all such notices also sent to CFI to the attention of CFI's General Counsel at the same address as CFI. Notice will be effective on the date shown on the delivery receipt or, in the case of personal delivery, actual receipt. All notices required pursuant to this Agreement shall be provided in strict compliance with this Section.

l)   Severability. If any provision herein is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any

way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

m) No Third-Party Beneficiaries. CFI and Client agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this Agreement.

n) Headings. The headings used in this Agreement, Exhibits, Quotes and Statements of Work are solely for convenience and shall not be considered in its interpretation.

o) Authorized Signer. Each party represents that the person signing this Agreement and any Exhibit, Statement of Work or Quotes hereto has been properly authorized and empowered to execute and deliver this Agreement and any Exhibit, Statement of Work or Quotes hereto on behalf of such party. This Agreement becomes null and void if the time between the earlier dated signature and the later dated signature exceeds sixty (60) days, unless waived by CFI.

p) Incorporation by Reference. Any Attachments to this Agreement and any Exhibit, Statement of Work or Quote now existing and hereafter executed or issued that are made pursuant to this Agreement shall be deemed to be part of this Agreement and are incorporated into this Agreement by reference.

q) Amendments. Except as otherwise provided herein or in an applicable Exhibit, Statement of Work or Quote, this Agreement and any Exhibit, Statement of Work or Quote may be changed or modified only in a written document signed by duly authorized representatives of both parties.

r) Counterparts/Duplicate Originals. This Agreement and any Exhibit, Statement of Work or Quote may be executed by the parties in one or more counterparts or duplicate originals, and each of which when so executed shall be an original, but all such counterparts shall constitute one and the same document.

s) Publicity/Use of Trademarks. Client agrees to permit the occasional use of Client's name and logo as well as reference to this Agreement and the Services in their respective promotional advertising, press releases and public relations efforts. All such use will be only in a manner that reflects positively upon the other party. CFI may place Client's name on a list of CFI's customers.

t) Non-Solicitation. Client shall not, without CFI's prior written consent, directly or indirectly, solicit for employment or hire any Restricted Employee (as defined herein) while such person is employed by CFI and for the 12-month period starting on the earlier of: (i) termination of such Restricted Employee's employment with CFI, or (ii) termination or expiration of this Agreement. "Restricted Employee" means any former or current employee of CFI or its Affiliates that provided services on behalf of CFI hereunder or that Client became aware of or came into contact with during CFI's performance of its obligations under this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate originals by their duly authorized representatives as of the day and year set forth above. This Agreement becomes null and void if the time between the earlier dated signature and the later dated signature exceeds sixty (60) days, unless waived by CFI.

Collaborative Fusion, Inc.   **State of West Virginia Department of Health and Human Services**

By: _____   By: _____

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____

/End of Agreement; Attachment 1 and Exhibits follow.

ATTACHMENT 1 TO SOFTWARE SERVICES AGREEMENT
Provisions Required for Federally Funded Procurements

[intentionally blank – Attachment 1 follows hereafter]

Provisions Required for Federally Funded Procurements

1. **Federal Funds:** This purchase is being funded in whole or in part with Federal Funds and is subject to the requirements established in 2 CFR § 200. Pursuant to 2 CFR § 200.317 the provisions of 2 CFR §§ 200.322 and 200.326 are expressly included in this solicitation below and incorporated into any contract resulting from this solicitation by reference.

2. **2 CFR §200.322 Procurement of recovered materials:** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

3. **§200.326 Contract provisions:** Pursuant to the requirements contained in 2 CFR §§ 200.317 and 200.326, the following provisions are included any contract resulting from this solicitation, to the extent that the provisions are applicable.

   (A) At a minimum, the administrative, contractual, or legal remedies contained in W. Va. CSR § 148-1-5 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract resulting from this solicitation in instances where contractors violate or breach contract terms for contracts for more than the simplified acquisition threshold currently set at $150,000 (which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908).,

   West Virginia Code of State Rules § 148-1-5 states:

   ### § 148-1-5. Remedies.

   5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

   5.2. Contract Cancellation.

5.2.a. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.a.1. The vendor agrees to the cancellation;

5.2.a.2. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.a.3. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.a.4. The existence of an organizational conflict of interest is identified;

5.2.a.5. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

5.2.a.6. Violation of any federal, state, or local law, regulation, or ordinance.

5.2.b. The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

5.2.c. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

5.2.d. Re-Award. The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

5.2.d.1. The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

5.2.d.2. The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.

Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.

5.3. Non-Responsible. If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

5.4. Suspension.

5.4.a. The Director may suspend, for a period not to exceed one (1) year, the right of a vendor to bid on procurements issued by the Purchasing Division or any state spending unit under its authority if:

5.4.a.1. The vendor has exhibited a pattern of submitting bids and then requesting that its bid be withdrawn after bids have been publicly opened. For purposes of this provision, a pattern is two or more instances in any 12 month period.

5.4.a.2. The vendor has exhibited a pattern of poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to, two or more instances of any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; and failure to deliver commodities, services, or printing at the quality level required by the contract.

5.4.a.3. The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

5.4.a.4. The vendor's actions have given rise to one or more of the grounds for debarment listed in section 5A-3-33d.

5.4.b. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:

5.4.b.1. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.

5.4.b.2. A notice of suspension must inform the vendor:

5.4.b.2.A. Of the grounds for the suspension;

5.4.b.2.B. Of the duration of the suspension;

5.4.b.2.C. Of the right to request a hearing contesting the suspension;

5.4.b.2.D. That a request for a hearing must be served on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension;

5.4.b.2.E. That the vendor's failure to request a hearing no later than five (5) working days of the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and

5.4.b.2.F. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.

5.4.b.3. A vendor's failure to serve a request for hearing on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.5.4.b.4. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.

5.4.b.5. Within five (5) working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.

5.4.b.6. The hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.

5.4.c. A vendor may appeal a decision of the Director to the Secretary of Administration. The appeal must be in writing and served on the Secretary no later than five (5) working days of receipt of the Director's decision.

5.4.d. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.e. Any notice or service related to suspension actions or proceedings must be provided by   certified mail, return receipt requested.

5.5. Vendor Debarment. The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in West Virginia Code § 5A-3-33d or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

5.5.a. Debarment proceedings shall be conducted in accordance with West Virginia Code § 5A-3-33e and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

5.5.b. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached. Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

5.5.c. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor,

including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated. 5.5.d. Pursuant to West Virginia Code section 5A-3-33e(e), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.

5.5.e. List of Debarred Vendors. The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

5.6. Damages.

5.6.a. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.b. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.c. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

(B) At a minimum, the termination for cause and for convenience provisions contained in W. Va. CSR § 148-1-5.2 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract in excess of $10,000 resulting from this solicitation.

West Virginia Code of State Rules § 148-1-5.2 states:

5.2. Contract Cancellation.

5.2.a. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.a.1. The vendor agrees to the cancellation;

5.2.a.2. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.a.3. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.a.4. The existence of an organizational conflict of interest is identified;

5.2.a.5. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

5.2.a.6. Violation of any federal, state, or local law, regulation, or ordinance.

5.2.b. The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

5.2.c. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

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

41 CFR § 60-1.3 defines "Federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

Accordingly, to the extent that this contract meets the definition of a "federally assisted construction contract" under 41 CFR Part 60-1.3, the following clause is included:

41 CFR 60-1.4 - Equal opportunity clause. (b) *Federally assisted construction contracts.*

In accordance with the requirements of described above, and except as otherwise provided in the applicable regulations, the following language is hereby incorporated into any contract resulting from this solicitation involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may

request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(D) Davis-Bacon Act, as amended (40 U.S.C.3141–3148). Any construction contract resulting from this solicitation hereby requires compliance with the Davis-Bacon Act (40 U.S.C.3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor

Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week.

Any construction contract resulting from this solicitation hereby requires compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701– 3708). Where applicable, any contract resulting from this solicitation in excess of $100,000 that involve the employment of mechanics or laborers hereby requires compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

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

(G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended— Any contract resulting from this solicitation in excess of $150,000 hereby requires compliance with all applicable standards, orders or regulations issued pursuant to t**he Clean Air Act (42 U.S.C.** 7401–7671q) and the Federal Water Pollution Control Act as amended (**33 U.S.C.**1251–1387).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)— Any contract resulting from this solicitation will not be awarded to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), ''Debarment and Suspension.''

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

For purposes of this Agreement, the following definitions shall apply:
1. "**Administrator**" means an employee, officer, director or consultant of Client to whom Client has provided a user account and certain rights to administer the Subscription on behalf of Client.
2. "**Client Data**" means data input by Client or its authorized Users into the Subscription and/or Software thereto.
3. **"CORES Platform"** means the computer software programs developed and owned by CFI that is part of the Software provided via the Subscription to the CLIENT, in machine executable object code form and the Documentation, together with Software Updates.
4. **"Custom Software"** means purchased customizations or modifications to the Software pursuant to a Statement of Work hereto which sets forth the customizations or modifications, the fees for such development services, the ownership of such, and whether such customizations or modifications to the Software are subject to Support Services.
5. **"Documentation"** means the user manuals, requirements, specifications, training materials, and any other documents, materials, information or guidance, whether supplied as printed material or in electronic form, provided by CFI in conjunction with the purchase, training, use, technical support or update of the Software and Services provided hereunder.
6. **"Effective Date"** means the execution date of this Agreement.
7. "**Initial Term**" shall mean as set forth in Section 9 of the Agreement.
8. **"Intellectual Property"** means any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing: copyrights (including derivative works, as defined by the United States Copyright Act, thereof), trademarks, trade names, Trade Secrets, mask work rights, know-how, patents and any other intellectual and industrial property and proprietary rights, of every kind and nature throughout the universe and however designated, and including all registrations, applications, renewals and extensions thereof, under applicable law as it may currently exist or as it may in the future exist.
9. "**Option Period**" shall mean as set forth in Section 9 of the Agreement.
10. "**Party**" means CFI or the Client individually and "Parties" shall mean CFI and the Client collectively.
11. **"Services"** means the services set forth in Section 3 in the Agreement and the Exhibits thereto as applicable.
12. "**Software**," means, individually and collectively, all of the software, including, without limitation, the CORES Platform, granted to Client from CFI via the Subscription as identified on Exhibit C hereto. Software includes Software Updates to such software.
13. "**Software Updates**" means any technical correction, patch, bug fix, enhancement or other software release to the Software that is provided to Client pursuant to the Client purchased Support Services and/or the Subscription.
14. **"Source Code"** means a series of instructions or statements in an English-like high level computer language such as but not limited to PHP, FORTRAN, C, or PASCAL, or in a relatively low-level language such as the assembly language for a particular processor. Source Code is normally readable by humans trained in the particular computer language in question. It is transformed by compiler into machine readable Object Code (or Executable Code) for actual use on a computer.
15. "**Support Services**" means the technical support services provided by CFI pursuant to the Agreement and Exhibit E. May also be referred to as "Software Support Services."
16. **"Statement of Work"** means a document(s) setting forth in detail services to be performed by CFI pursuant to the fees therein, all subject to and to be governed by this Agreement. A Statement of Work may be amended only in writing with the mutual agreement of the parties from time to time in accordance with this Agreement.
17. "**Subscription**" means a SaaS based subscription for Client to use and access the proprietary Software, Software Updates, online and/or hard-copy documentation and user guides as set forth in Section 4 of this Agreement and for the Term set forth in Exhibit A.
18. "**Term**" shall mean as set forth in Section 9 of the Agreement.
19. **"Use"** means accessing and using the Subscription and Software therein in accordance with the terms and conditions of the Agreement (including, without limitation, any additional limitations or restrictions specified therein) and the applicable Documentation.
20. **"User"** means any authorized employee, contractor, or third-party representative of Client who accesses the Subscription and Software therein.

/End of Exhibit A

THIRD-PARTY FUNCTIONALITY USED TO SUPPORT THE SUBSCRIPTION

Minimum Requirements:
- o Connection to the Internet
- o Ability to read Comma-Separated Values (CSV) Files
- o Browser Requirements
    - o Vendor Supported
    - o JavaScript Enabled
    - o Cookies Enabled
    - o 128-bit SSL Enabled
    - o Pop-up Blocker Disabled

Recommended Browsers:
- o Microsoft Internet Explorer, version 11 or later
- o Mozilla Firefox (most recent version)
- o Chrome (most recent version)
- o Edge (most recent version)

/End of Exhibit B

EXHIBIT C TO SOFTWARE SERVICES AGREEMENT
FEES AND PAYMENT SCHEDULE

Fees - **Further to quote # Q-01937, dated July 27, 2020:**

ITEM NUMBER	DESCRIPTION	SALES PRICE	QTY	TOTAL PRICE
Year 1 Subscriptions and Consulting Services				
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** Year 1/Deliverable 6 CORES HAN	$46,421.00	1	$46,421.00
700-P-SCP-1	**Consulting Services - Service Credit Hours** Client Support Support Engineer Off-site Year 1/Deliverable 7 Technical assistance performed as needed not to exceed 15 hour of technical assistance per month.	$843.36	1	$843.36
800-R-WBT-1	**Training Center - Web-Based Training** CORES Web-based Administrator Training (includes one (1) two-hour training session for up to 30 students) Year 2/Deliverable 1 & 2 CORES HAN User & Admiinistrator Training	$500.00	1	$500.00
800-R-WBT-1	**Training Center - Web-Based Training** CORES Web-based Administrator Training (includes one (1) two-hour training session for up to 30 students) Year 3/Deliverable 1 & 2 User and State/LHD Training DVD	$500.00	1	$500.00
700-P-SCP-1	**Consulting Services - Service Credit Hours** Client Support Support Engineer Off-site Year 2/Deliverable 4 Technical assistance not to exceed 10 hours per month.	$562.20	1	$562.20
700-P-SCP-1	**Consulting Services - Service Credit Hours** Client Support Support Engineer Off-site Year 4/Deliverable 4 Technical assistance as needed not to exceed 5 hours per month.	$281.16	1	$281.16
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** CORES Implementation Package Year 1/Deliverable 1, 2, 3, & 5 CORES HAN Implementation Package	$0.00	1	$0.00
800-R-WBT-1	**Training Center - Web-Based Training** CORES Web-based Administrator Training (includes one (1) two-hour training session for up to 30 students) Year 1/Deliverable 4 CORES HAN Administrator Training DVD	$500.00	1	$500.00
800-R-WBT-1	**Training Center - Web-Based Training** CORES Web-based Administrator Training (includes one (1) two-hour training session for up to 30 students) Year 4/Deliverable 1 & 2 CORES HAN User & Administrator Trainig DVD	$500.00	1	$500.00
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** CORES Health Alert Network (HAN) Year 3/Deliverable 3 CORES HAN	$46,421.00	1	$46,421.00
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** CORES Health Alert Network (HAN) Year 2/Deliverable 3 CORES HAN	$46,421.00	1	$46,421.00
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** CORES Health Alert Network (HAN) Year 4/Deliverable 3 CORES HAN	$46,421.00	1	$46,421.00
700-P-SCP-1	**Consulting Services - Service Credit Hours** Client Support Support Engineer Off-site Year 3/Deliverable 4 Technical assistance not to exceed 5 hours per month	$281.16	1	$281.16
Total Year 1 Fees for Subscriptions and Consulting Services (plus applicable taxes)				$189,651.88

Payment Terms
For purposes of this Exhibit C, the "**Total Year 1 Fees for Subscriptions and Consulting Services**" set forth above in the amount of **$189,651.88.00 USD** (plus applicable taxes) shall be invoiced by CFI to Client upon CFI's receipt of this Agreement (executed by Client).

All charges in this Agreement are exclusive of taxes incurred by CFI in the performance of services and are in addition to any charges set forth in any other Statement of Works or Addenda or Quotes to the Agreement or in the Agreement. All invoices are due and payable thirty (30) days from the date of the invoice and interest fees/late charges (as provided in the Agreement) shall apply to any invoiced amounts not paid within the time periods provided in this Exhibit C or in the Agreement.

If Client is tax exempt, Client shall be responsible for providing all necessary documentation to show such tax-exempt status to CFI or to the taxing CLIENT.

Pricing contained herein is based on configuration outlined above. Some items may not be sold separately. Pricing is valid until the expiration date on the Quote identified above.

/End of Exhibit C

EXHIBIT D TO SOFTWARE SERVICES AGREEMENT
DESCRIPTION OF HOSTED SERVICES

1. <u>Definitions</u>. For the purposes of this Exhibit, the following words have the meaning set forth below:
    a. "**Juvare Cloud**" means the shared hardware environment for the purpose of hosting and maintaining software and data on behalf of CFI's customers. Juvare Cloud™ is a trademark of Juvare, LLC.
    b. "**Hosted System**" means the combination of hardware, software and networking components used by the Application Service Provider to deliver the Hosted Services.
    c. "**Hosted Services**" means the installation and management of specified software applications in the Juvare Cloud shared environment on behalf of a CFI customer and exclusively for the benefit of permitted users of the Software.
    All other capitalized terms in this Exhibit D shall have the same meaning set forth in the Agreement, except where otherwise stated in this Exhibit.

2. <u>Scope of Services</u>. CFI shall provide the following services to address the Software hosting needs:
    a. CFI shall provide Hosted Services to Client according to the provisions set forth in the Agreement and this Exhibit. CFI shall notify Client promptly upon creation of Hosted Services account and provide Client with all information required to access such account. CFI, at its sole discretion, may provide and maintain such Hosted System and/or deliver such Hosted Services internally or through a qualified subcontractor.
    b. CFI shall provide and maintain the facilities, hardware, and networking components as it sees fit to provide access to the Juvare Cloud for the benefit of Client.
    c. CFI shall perform, at its convenience and after notice to Client, scheduled updates of the Juvare Cloud as CFI or its hosting subcontractor sees fit. Such updates shall be scheduled to enable the simultaneous update to all of CFI-hosted customers.
    d. CFI or its hosting subcontractors shall be entitled to perform, as needed, emergency security updates to the Hosted System to protect the Juvare Cloud or the subcontractor's hosted environment from newly identified and widespread threats to the internet or internet-based services posed by worms, viruses and Trojans, or to address other vulnerabilities, with little or no notice to Client.
    e. CFI shall provide and maintain a redundant shared environment of the Juvare Cloud at a location that is geographically separated from its primary ASP Environment to ensure continuity of Software access and operation in the event of any unforeseen outage, disaster or other event that may interrupt service at the primary location of the Juvare Cloud. Failover to the redundant shared environment of the Juvare Cloud is a manual process and service will be activated by CFI immediately upon notification of malfunction, unavailability or failure of primary shared environment of the Juvare Cloud.
    f. CFI will notify (via CFI's Support Center) the Client of any planned service outages, i.e., for the purpose of performing Software updates or testing, or other inability to perform the services outlined in this Agreement.
    g. CFI shall schedule, perform and maintain a duplicate ("backup") record of Client's data within the Juvare Cloud. CFI shall perform hourly SQL transaction log backups and daily full backups. Data backups are limited to SQL database server files (i.e., those files having a .mdf or .ldf file extension). Data backups shall be retained on-site for four weeks.
    h. In addition to the Support Services pursuant to the Agreement and Exhibit E, CFI shall provide Client with Support Services for the Hosted Services which include assistance with problems related to the Juvare Cloud, data access, Hosted System access, or similar problems. Such Support Services for the Hosted Services may be accessible to Client via the same contact information provided to Client for Support Services; *provided, however*, services to be provided by CFI under this Exhibit and the Agreement do not include assistance with third party products; training; installation of plug-ins, boards or modules; API support; or board building; or maintenance, repair or correction of errors, defects or other operational or performance defects caused by Software configuration, modification, enhancement or programming provided by any party other than CFI or an CFI-certified technician. Any professional services described in this Section 2(h), or services required to repair or correct the errors and defects described in this Section 2(h), shall be provided on a fee-for-services basis at rates consistent with the CFI published price list in effect at the time services are rendered.
    i. Client may request performance of additional services by CFI. Such services shall be invoiced separately by CFI at the current published rate for labor and actual costs for materials and travel, if applicable.

3. <u>Client Obligations</u>
    a. The Client shall maintain, at Client's expense, a secure high-speed internet connection through which to access its hosted Software.
    b. The Client shall appoint a designated point of contact and two alternate points of contact for its interactions with CFI. Client shall provide CFI with the name, job title, physical address, telephone number, facsimile number and electronic mail address for each of the contact persons. Client shall keep such contact information up-to-date and promptly notify CFI, in writing via electronic mail, of any changes.
    c. The Client shall use reasonable security precautions in connection with the use of Services provided under this Agreement.
    d. The Client is responsible for any and all use and access to the Hosted System and Hosted Services by its employees, agents, contractors and permitted users of the Software and Hosted Services.
    e. The Client shall make best efforts to notify CFI in writing, via electronic mail or facsimile, of any planned non-emergency use of its Software, such as the occurrence of training sessions, drills and exercises, to aid CFI with the planning of any scheduled outages.
    f. The Client shall promptly notify CFI Support Center of any identified Hosted Services outage that impairs Client's access to the Software so that CFI may manually activate the redundant shared environment of the Juvare Cloud and immediately commence work to restore service to the primary shared environment of the Juvare Cloud.

b.   The Client shall not conduct any load testing, performance testing or any other test of the Hosted System which may degrade performance or limit or adversely impact availability of the Juvare Cloud for other customers.

4.   <u>Limitations on Use of Hosted Services</u>.
    a.   Access to the Hosted System may not be rented, leased, sold, sub-leased, assigned or otherwise transferred for value or for no value by Client to any third party.
    b.   Hosted System and Hosted Services are provided to support the Software which is an information management tool. Hosted Services are not guaranteed to be fault-tolerant or to provide fail-safe performance. Hosted Services are not appropriate for use in ultra-hazardous environments where failure of the Hosted System or the Juvare Cloud may lead to bodily injury, death or destruction of property.
    c.   Installation of Software applications in the Juvare Cloud is limited to the Software included in the Subscription to Client by CFI and Software supplied by CFI either as a component of the Hosted System or to support delivery of Hosted Services.
    d.   CFI shall only be responsible for performance of components of the Hosted System and Services under its control. CFI shall not be responsible for performance deficiencies caused by processes, hardware and software beyond its control including, but not limited to, information transmission delays due to excessive internet traffic, internet outages, or failure of Client to perform its obligations under this Agreement.
    e.   The warranties set forth in the Agreement shall be void if any breach of this warranty or failure of the hosting environment or Software is caused by unauthorized use, improper use or modification to Software made by Client or its authorized users.

/End of Exhibit D

EXHIBIT E TO SOFTWARE SERVICES AGREEMENT
DESCRIPTION OF SUPPORT SERVICES FOR THE SOFTWARE

Support Services for the Software shall include the following (in addition to what is stated in the Agreement):

1) Telephone Assistance: Client's "Support Contact" (as defined below) may contact the CFI's Support Center for telephone assistance to seek advice relating to the use of Hosted Services and/or to identify and work to provide a "workaround" for Software problems, if available. Telephone assistance for non-Emergency Support Services shall be available during Standard Business Hours.

2) Problem Assistance: Client may submit problem assistance requests for Software assistance via the published CFI's support escalation procedures. CFI will notify Client if any request is beyond the scope of this Agreement and is, therefore, subject to additional charges. Requests for problem assistance for non-Emergency Support Services shall be available during Standard Business Hours.

3) Software Updates: CFI will update the Software as such updates and future versions of the applicable Software are made generally available to other CFI clients receiving Support Services at no additional charge. Any training required by Client related to such Software Updates and subsequent versions of the Software are provided for an additional charge. CFI shall provide Client with Software Updates to the Software, except for modules, as such Software Updates become available. Software Updates may include correction releases (i.e. patches provided to correct software anomalies), point releases (i.e. modifications to current generation of software including enhancement and improvements), and level releases (i.e. new releases or new generation of software), but shall not include new products, modules or plug-ins released commercially by CFI as independently priced items. For Modules, CFI shall provide Client any Software Updates released by CFI to correct errors affecting the operation of the Module, whether such error is caused by the Module itself or by an error in the Software, and any Software Updates required to maintain compatibility with the Software. CFI shall not provide for any enhancements to the Module.

Process to Obtain Support Services. To obtain Support Services or telephone or problem assistance, Client's designated Support Contact (an assigned Administrator that has completed the Administrator training and is listed as the Support Contact for Client) may contact CFI's Support Center as per CFI's published support procedures. Such support procedures include contacting CFI's Support Center via telephone, email and, when required, remote session support during Standard Business Hours and during Non-Standard Business Hours.

"Routine" Support Services includes assistance with the use and configuration of the software; assistance with identification and resolution of errors or defects assistance with application and use of new releases; general support for Board Builder and boards built by CFI or an CFI-certified technician; and access to WebEOC best practices, community-use status boards, "help" resources and other content made available through https://www.juvare.com/customers/technical-support, a "client only" web forum. Support Services may be accessed by Client by calling the Support Center via (877) 771-0911 or by electronic mail at support@juvare.com (subject to updates and changes by CFI).

"Emergency" Support Services shall be available 24 hours per day, 365 days per year. Emergency telephone support includes any assistance needed by Client while Software is in use operationally, whether for actual incidents or exercises excluding assistance with GIS interfaces, mapping or products, which is licensed by a third-party vendor is available only during Standard Business Hours. Emergency Support Services may be accessed by calling the Support Center via (877) 771-0911 (subject to updates and changes by CFI).

Client may request performance of additional services by CFI. Such services shall be invoiced separately by CFI at CFI's then current rate for such services and Travel Expenses, if applicable.

Limitations on Support Services. CFI will provide Support Services for only the current version of any Software. Client is obligated to promptly implement all Software Updates, work arounds and error corrections provided by CFI.

Problems or Issues Not Covered by Support Services. The following issues/problems, and all issues or problems caused by the following, are not covered by Support Services:

1. Alterations to the Software not authorized by CFI;
2. Unless otherwise agreed in an Exhibit or Statement of Work hereto, customizations to the Software from consulting or professional services provided by CFI, including applications design or recommendations by Client;
3. Software problems created by Client negligence or fault or failure to comply with any specifications, policies, procedures or requirements for use of the Software, including, without limitation, those set forth in CFI's Acceptance Use Policy and Privacy Policy;
4. Software problems caused by or related to a change in Client's service provider or internet access provider. Without limiting the generality of the foregoing, no reconfiguration of the Software due to a change in a service provider is covered under Support Services. Client should notify CFI prior to changing its service provider to enable CFI to provide configuration specifications to the new service provider. Any programming and configuration changes will be charged to Client at the then-current CFI's daily/hourly rates for such reconfiguration services;
5. Software problems that do not significantly impair or affect the operation of the Software;
6. Assistance with third party products; Training; Installation of plug-ins, boards or modules; API support; Board building; and
7. Client's failure to allow for the prompt implementation of Error corrections, Software updates, or any work-around provided or made available by CFI (including, without limitation and applicable at all times, implementation of more recently released, generally available versions or releases of the Software made available through Support Services that contain corrections to the relevant Error or where such Error does not occur when using such more recently released version or release of the Software).

Client Responsibilities. Client agrees to limit its requests for Support Services after Standard Business Hours to occasions when the problem related to the Software is critical to Client's operation and cannot wait to be addressed until Standard Business Hours on the next succeeding Contractor business day. CFI's provision of Support Services is subject to CLIENT documenting and promptly reporting all errors or malfunctions of the Software and Subscription to CFI. The CLIENT shall properly train its Users in the use and application of the Software and Subscription and the equipment on which it is used.

/End of Exhibits

Addendum Acknowledgement Form

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ 0506 BPH2100000001

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.

Collaborative Fusion
_____

DocuSigned by:

Nick Meeks

D4DD6026E50C4C6...
_____
Company

Authorized Signature

July 31, 2020
_____
Date

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

Purchasing Affidavit

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

CONSTRUCTION CONTRACTS: Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

ALL CONTRACTS: Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

AFFIRMATION: By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (*W. Va. Code* §61-5-3) that: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: Collaborative Fusion, Inc.

Authorized Signature: _N+L_ Date: 7/28/20

State of GEORGIA

County of FULTON , to-wit:

Taken, subscribed, and sworn to before me this 28 day of July , 20 20

My Commission expires June 07 , 20 23

AFFIX SEAL HERE _Natasha Beganom_
NOTARY PUBLIC

Purchasing Affidavit (Revised 01/19/2018)

[Notary Seal: NATASHA BEGANOM, MY COMMISSION EXPIRES, NOTARY PUBLIC, JUNE 07, 2023, GWINNETT COUNTY, GEORGIA]

Insurance Coverage

CERTIFICATE OF LIABILITY INSURANCE

ACORD®

Acct#: 2740823

DATE (MM/DD/YYYY)
5/11/2020

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	CONTACT NAME:	888-828-8365		
Lockton Companies, LLC 3657 Briarpark Dr., Suite 700 Houston, TX 77042	PHONE (A/C, No, Ext):		FAX (A/C, No):	
	E-MAIL ADDRESS:			
	INSURER(S) AFFORDING COVERAGE			**NAIC #**
	INSURER A : Indemnity Insurance Co. of North America			43575
INSURED Insperity, Inc. 19001 Crescent Springs Drive Kingwood, TX 77339 *SEE BELOW	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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR						EACH OCCURRENCE	$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC ☐ OTHER:						GENERAL AGGREGATE	$
							PRODUCTS - COMP/OP AGG	$
								$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	☐ **UMBRELLA LIAB** ☐ OCCUR ☐ **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
A	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N ☐ (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N / A	C66698300	10/1/2019	10/1/2020	X PER STATUTE ☐ OTHER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Collaborative Fusion, Inc. (4509700) IS INCLUDED AS A NAMED INSURED THROUGH ENDORSEMENT.
RE: PUBLIC HEALTH EMERGENCY NOTIFICATION SYSTEM

CERTIFICATE HOLDER	CANCELLATION
STATE OF WEST VIRGINIA DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130	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** *[signature]*

ACORD 25 (2016/03)

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/11/2020

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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Amber Zell
J Smith Lanier & Co Newnan P. O. Box 71429 47 Postal Parkway Newnan, GA 30271-1429	PHONE (A/C, No, Ext): 770-683-1000 FAX (A/C, No): 770-683-1010
	E-MAIL ADDRESS: azell@jsmithlanier.com

	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A :	American Casualty Co. of Reading PA	20427
INSURER B :	Continental Insurance Company	35289
INSURER C :	Columbia Casualty Company	31127
INSURER D :	Transportation Insurance	20494
INSURER E :		
INSURER F :		

INSURED
Collaborative Fusion, Inc
235 Peachtree Street, NE; Suite 2300
Atlanta, GA 30303

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	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR	X	X	6083191715	05/08/2020	05/08/2021	EACH OCCURRENCE	$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
							MED EXP (Any one person)	$15,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PROJECT [ ] LOC OTHER:						GENERAL AGGREGATE	$2,000,000
							PRODUCTS - COMP/OP AGG	$2,000,000
								$
D	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	X	X	6083192136	05/08/2020	05/08/2021	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [X] RETENTION $10000			6083234885	05/08/2020	05/08/2021	EACH OCCURRENCE	$5,000,000
							AGGREGATE	$5,000,000
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					PER STATUTE / OTHER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
C	Technology E&O Cyber Liability			651995465	05/08/2020	05/08/2021	SIR:$100,000 $10,000,000 Limit	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
(GL) Additional Insured status applies on a Primary & Non-Contributory basis per Form CNA74872XX115.
(GL) Waiver of Subrogation applies per Form CNA74872XX115.
(CAU) Additional Insured status applies on a Primary & Non-Contributory basis per Form CNA83700XX102015.
(CAU) Waiver of Subrogation applies per Form CNA83700XX102015.
Re: Insperity Client Id: 4509700
Full certificate holder: State of West Virginia, Department of Administration Purchasing Division

CERTIFICATE HOLDER	CANCELLATION
State of West Virginia 2019 Washington Street Charleston, WV 25305-0130	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 *PETER J. KRAUSE*

JUVARE

SECURING A RESILIENT FUTURE

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ 0506 BPH2100000001

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.

Collaborative Fusion
_____

DocuSigned by:

Nick Meeks

D4DD6026E50C4C6...
_____
Company

Authorized Signature

July 31, 2020
_____

Date

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

CFI

SOFTWARE SERVICES AGREEMENT

In the event of an inconsistency in the terms of this Agreement and the terms in the Attachment 1 - Provisions Required for Federally Funded Procurements, the terms in the Attachment 1 - Provisions Required for Federally Funded Procurements shall control for purposes of the inconsistency.

This **Software Services Agreement** (the "**Agreement**"), effective _____, 2020 ("**Effective Date**"), is by and between the **State of West Virginia Department of Health and Human Services** (hereinafter referred to as "Client"), a State of West Virginia government department having its principal place of business located at State Capitol Complex, Bldg. 3, Room 206, Charleston, West Virginia 25305, and **Collaborative Fusion, Inc.** ("**CFI**"), a Delaware corporation with its principal place of business located at 235 Peachtree Street NE, Suite 2300, Atlanta, Georgia 30303. The following Exhibits are attached hereto and incorporated herein as part of this Agreement:
1. Attachment 1 - Provisions Required for Federally Funded Procurements
2. Exhibit A – Definitions
3. Exhibit B – Third-Party Functionality Used to Support the Subscription
4. Exhibit C – Fees and Payment Terms
5. Exhibit D – Description of Hosted Services
6. Exhibit E – Description of Support Services

Upon execution of this Agreement by both parties, Client understands and acknowledges: (i) no new Software is being provided to Client pursuant to this Agreement as Client already received a subscription based access to the CORES RMS™ Software identified on <u>Exhibit C</u> to this Agreement and this Agreement is initially only for a one (1) year renewal of the Software-as-a-Services ("SaaS") based subscription to the CORES RMS Software; and (ii) any previously executed agreements, including, without limitation, the Contract – Order Number CCT 0506 0506 BPH1500000001, dated 2015-06-18 (collectively, the "Prior Agreement") by and between the parties for the CORES RMS Software Subscription and related services thereto shall be terminated and replaced by this Agreement in all effects. Any payment obligations set forth in such Prior Agreements shall remain due and payable and shall be survive such termination.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definitions.** Unless otherwise specifically stated in this Agreement or in another Exhibit hereto, the capitalized terms used in this Agreement shall have the meanings set forth in <u>Exhibit A</u> to this Agreement.

2. **Subscription.**
2.1. <u>Subscription</u> Grant. Subject to the terms and conditions of this Agreement, CFI hereby grants to Client a non-exclusive, non-transferable right to Use the Software identified on <u>Exhibit C</u> on a Software-as-a-Services ("SaaS") subscription basis without right of sublicense solely for Client's internal purposes for the stated Term. This Subscription does not transfer a license, title, or any proprietary or Intellectual Property rights to the Software, Documentation, or any Trade Secrets, copyrights, patents, or trademarks, embodied therein or used in connection therewith. CFI or its third-party service providers retain all right, title, and interest in and to the original, and any copies, of the Software and Intellectual Property rights therein.
2.2. <u>Change in Scope of Subscription</u>. The scope of this Subscription may be changed by a supplemental written agreement or amendment executed by both parties; for clarification purposes only, additional software products may be included in the Subscription, or the Subscription may be used for additional purposes beyond those described in 2 above.

2.3. <u>Client Responsibilities</u>.
(a) Client agrees not to, and shall not allow any of its authorized Users, employees, agents, representatives, affiliates or other third party to, (i) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any Source Code or underlying ideas, algorithms, file formats or programming, or interoperability interfaces of the Software or any portion thereof, (ii) sublicense, assign, transfer, rent, or sell use of the Subscription or the Software therein, (iii) remove any product identification, copyright, or other notices, (iv) develop any derivative work based upon the Subscription, Software, Documentation, or any Confidential Information, (v) provide, disclose, divulge or make available to, or permit use of the Subscription or the Software therein by any third party without CFI's prior written consent, or (vi) except as specified in the applicable user documentation, modify or incorporate the Subscription or the Software therein into or with other software. Client is responsible for the use and access of its Users, employees, agents, representatives, affiliates or other third party.
(b) <u>Login Credentials</u>. Client shall be solely responsible for all security regarding its User IDs, logins, passwords, and connectivity. Should security of any of these items be compromised, Client is obligated to immediately contact CFI to have such User IDs or passwords changed to prevent malicious use or any use in violation of this Agreement of the Subscription or Software. Further, if any of these items are compromised and used for malicious purposes, Client is responsible for all content and fees, including notification charges for messages sent using the compromised account information.
(c) <u>Third Party Technology Licenses</u>. Client acknowledges and agrees that, (a) in order to be executed, the Subscription require certain third-party technology, described in <u>Exhibit B</u> hereof, (b) CFI does not have the right to grant sublicenses to such third-party technology, and (c) prior to use of the Subscription, the CLIENT will, if necessary, obtain the licenses from the vendors of such third-party technology.
(d) <u>Client Data</u>.

(i) <u>Entry of Client Data</u>. Client's Users using the Subscription shall be solely responsible for all data entry, error correction, and the accuracy of the data related to themselves while using the Subscription. Notwithstanding the foregoing and only if the Services purchased by CLIENT includes such service, CFI shall use its reasonable efforts to verify, on a routine basis through external databases, the accuracy of credential information inputted into the Software by the Users.

(ii) <u>Ownership</u>. Information entered by Users into the Software (collectively "Client Data") will remain the property of Client. The Client Data is owned and controlled by the Client. CFI shall have the right to access and use the Client Data to perform its obligations in this Agreement, so long as it maintains the confidentiality thereof. If included as part of the Services, CFI may access the Client Data for the purpose of verifying through external databases, the accuracy of credential information data, so long as it maintains the confidentiality thereof.

(iii) <u>Schema</u>. The schema relating to the storage and organization of the Client Data is owned and controlled by CFI. Client agrees and acknowledges that the Client has no right to the schema relating to the storage and organization of the Client Data. Client further agrees and acknowledges that the Client has no right to receive the Client Data in a format organized or stored according to the schema.

(iv) <u>Return of Client Data</u>. Upon the expiration of the Subscription or the termination of this Agreement, whichever is earlier, Client may request an export by CFI of the Client Data. The costs associated with exporting the Client Data will paid by the Client at CFI's then-current rates for data extraction services at the time of the export.

(e) <u>Notifications</u>. Client is responsible for all notifications transmitted through the Subscription and the Software thereto. Client acknowledges that all content, data, text, messages and other material contained in a voice, text, e-mail, Short Message Service ("SMS"), or other telephonic or electronic Notification ("Content") is the sole responsibility of the Client. Client is solely responsible for the integrity and quality of the Content. Client will not send any notifications unless (i) (a) the recipient of the message is an employee of Client sending the message (b) is using a device owned or paid for by the Client sending the message (c) using a personal device and the User has given the Client permission to communicate with them via the device or (d) Client has obtained "opt-in" consent from the User and/or recipient; (ii) applicable to sending SMS only, CFI provides Users with a mechanism for opting out of receiving messages, including information on how to "opt-out" through the Software within the Subscription. Users can opt-out of receiving messages from the Client by sending a message to the Client Administrator with "unsubscribe" in the text or removing themselves from the notifications; (iii) Client represents and warrants that it will send notifications in accordance with this Agreement; (iv) Client has determined that the phone numbers to be called exclude emergency numbers and other numbers that may not be called using an automated system under applicable law; (v) by way of example, and not as limitation, Client agrees to (a) comply with all federal, state and local laws, including but not limited to, the Fair Debt Collection Practices Act, Federal Trade Commission or any other federal or state regulatory authority; (vi) and that Client will not: (a) violate any regulation of the U.S. Securities and Exchange Commission or any stock exchange, infringe one another's rights in Intellectual Property, is invasive of another's right to privacy, or violate any privacy laws, privacy policies of Client or any other third parties or do anything that would justify a complaint to the Federal Communications Commission; (b) engage or facilitate any illegal, unethical, deceptive or misleading practices in connection with the use of the Subscription and Software thereto, including but not limited to, creating a false id CLIENT or forged email, phone or message header or otherwise attempt to mislead others as to the id CLIENT of the sender or the origin of the message; (c) use the Subscription and Software thereto in connection with any junk email, junk phone messages, spamming or any unsolicited messages (commercial or otherwise); (d) provide, or knowingly allow any third parties to provide, content or other material to be transmitted in connection with or through the Subscription and Software thereto which: is defamatory, libelous, obscene, pornographic or is harmful to minors; promotes violence, discrimination, or illegal activities; transmit any material that contains viruses, worms, cancelbots or any other harmful code or computer programs designed to disrupt the functionality of any computer software or hardware or telecommunications equipment; or (e) violate any law, statute, ordinance or regulation, (including without limitation the laws and regulations governing export control); and (vii) Client is allowed to send SMS in text format only. No binary SMS messaging is allowed. The CLIENT acknowledges that all Content, data, text, messages and other material contained in a voice or text Notification sent by the CLIENT through the Subscription and Software thereto are the sole responsibility of the CLIENT. Under no circumstances will CFI or any of its Providers be responsible for any loss, damage, or liability arising out of the Content of any notification, including any mistakes contained in the Content or the use or transmission of the Content.

(f) <u>Background Services</u>. Client warrants and certifies that it will request, receive, disseminate and otherwise use the background screening services including, but not limited to, criminal record history, motor vehicle records, employment verification, education verification, and social security number verification (collectively "Background Services") in compliance with all applicable federal, state and local statutes, rules, codes and regulations, including but not limited to, the Fair Credit Reporting Act ("FCRA") and its state equivalents, the Driver's Privacy Protection Act 18 U.S.C. §2721 et seq., ("DPPA") and its state equivalents, the Gramm-Leach-Bliley Act ("GLB") and its state equivalents, and including any changes, supplements or amendments to such statutes, rules, codes and regulations as well as any case law interpreting such statutes, rules, codes and regulations (collectively referred to herein as "The Laws"). Client accepts the responsibility of understanding and for staying current with all applicable laws, specific state forms, certificates of use or other documents or agreements including any changes, supplements or amendments thereto imposed by the states (collectively referred to as "Specific State Forms") from which it will order Background Services or materials. The Client hereby certifies that it has filed or will file prior to use all applicable Specific State Forms required by individual states and that if it receives Background Services or materials from a State requiring a state form, it will execute a copy of the appropriate State agreements and return same to CFI. Client warrants and certifies that it is a permissible purpose under the FCRA for which the Background Services were furnished; it has established, will implement and comply with reasonable procedures designed to ensure that the information supplied by CFI and CFI's partners is only distributed to an end-user with a permissible purpose including exercising reasonable efforts to verify the id of that user; obtain a certification from the end-user of the purposes for which the report will be used, and a certification that the report will not be used for any other purpose. Client shall, at Client's sole cost and expense, defend, indemnify and hold CFI, its affiliates and each party's employees, officers, directors, agents, representatives and contractors harmless from and against any and all claims and damages that arise from (a) infringement or contributory infringement to the extent caused in whole or in part by Client, its Authorized Users, agents, representatives, employees or by third parties under Client's direction; (b) additions, changes or modifications to the Services

and/or Software therein by or on behalf of Client; (c) incorporation of the services or any component thereof into any other Client product or process; (d) use of the services by Client other than as permitted by this Agreement or applicable Exhibit hereto; (e) Client's breach of any of its obligations under this Agreement or applicable Exhibit hereto; (f) any personal injury or property damage caused by Client; (g) Client's breach of any national, federal, state or local law or regulation in connection with Client's use of the System or services; (h) Client's performance of services for Client's clients; (i) claims against CFI by Client's clients, customers or third parties that Client communicates with using the services; and (j) libelous, slanderous, indecent or other statement concerning or arising out of Client's statement or publications to or about individuals or business entities.

3. **Services**. During the Term and provided Client is not in violation of this Agreement, including, without limitation, payment of the applicable Fees for the Term, CFI will provide the following services:

3.1.   Activation and Access. Upon CFI's receipt of the Client's payment of the Fees set forth on Exhibit C, CFI will activate and provide the Client with access to Use the Subscription.

3.2.   Hosting Services. CFI will provide the Hosted Services, as set forth in Exhibit D hereto, for the Subscription to the Software during the Standard Business Hours.

3.3.   Support Services. CFI will provide Support Services, all as further defined in Exhibit E hereto, for the Subscription and the Software therein during the Standard Business Hours consisting of the following: (i) CFI will use reasonable efforts to maintain the Software to comply with the applicable Documentation in all material respects, and (ii) if and when made generally available through Support Services to CFI's other customers receiving Support Services, providing subsequent Software Updates for Use consistent with this Agreement and CFI's then-current policies. All Software Updates received by Client shall be subject to the terms of this Agreement. Support Services shall not include, and CFI shall not be responsible for, (i) failures of the Software to perform consistent with the Documentation, specifications, requirements and other details set forth in this Agreement or any subsequent amendments or quotes hereto in all material respects resulting from or caused by Client, Client's hardware and equipment, Client's connection to the Software, third party service providers, including, without limitation, communications services providers, or otherwise disclaimed elsewhere in this Agreement; (ii) any latency or downtime due to acts or omissions by the Client, its Administrators, or Users; (iii) or acts or omissions of unauthorized third parties and/or third parties over which CFI has no control; (iv) Internet latency, failures, or outages; (v) problems associated with the computer hardware and software systems used by the Client or its Administrators.

3.4.   Background Services. If Background Services are included on the Services set forth on Exhibit C, CFI shall Beginning on the effective date of this Agreement, CFI shall maintain and shall cause the CLIENT to maintain all records related to each request made to for Background Services for a (3) year period (and such period as prescribed by law) from the date each request was made. The information retained and reports pursuant to this Section shall include, but not be limited to, the: request date, requested individual, requestor, and permissible purpose for each report and any other information sufficient to verify that the request and use of the report complies with the terms of this Agreement and the FCRA.

4.   Fees and Payment Terms.

4.1   Payment; Late Payment. All amounts are due and payable by Client to CFI as set forth in Exhibit C hereto (unless alternative payment terms are mutually agreed up on by the parties). Any payments not received by CFI within thirty (30) days after the date of the applicable invoice (or as otherwise due pursuant to Exhibit C or an applicable Quote) will be considered past due and will accrue a late fee of 1.5% (or, if less, the highest amount allowed by applicable law) for failure to pay such invoiced amount within thirty (30) days of the applicable invoice date and for each thirty (30) day period thereafter that such amounts remain past due and owing.

4.2   Travel Expenses and Additional Charges. To the extent that the Services provided hereunder may require CFI to travel, Client shall pay Travel Expenses reasonably incurred by CFI in connection with such travel. CFI shall invoice Client for Travel Expenses on a monthly basis as incurred. Travel Expenses are in addition to any charges set forth in this Agreement or any Quote hereto. Other additional charges may be required should Client elect to: (a) additional Services beyond what has been agreed to herein; (b) increase the use limitations on the Software; (c) increase the number of non-production instances of the Software; (d) additional Software; (e) upon exercise of an Option Period; (f) increase storage capacity; or (g) as otherwise required by the Agreement.

4.3   (Omitted.)

4.4   Suspension of the Software, Services and Support Services. Without limitation as to any other rights or remedies of CFI under this Agreement, CFI reserves the right to immediately suspend Client's access to and use of the Services (including, without limitation, to the Software and the Support Services), without notice to Client, if any amounts payable to CFI are past due and not paid within the time frame set forth in Section 5.1 or elsewhere in this Agreement or an Exhibit, Statement of Work or Quote hereto, as applicable. Client agrees that CFI shall have no liability to Client, and Client waives any claim or action against CFI in the event of suspension or termination of access to or use of the Services for Client's failure to timely pay charges. Client's payment obligations shall continue during any period of suspension pursuant to this Section.

4.5   Taxes. All amounts charged by CFI are exclusive of, do not include, and Client shall be solely responsible for payment of, all sales, excise, use, value added, or other taxes, tariffs and duties that may be applicable to the Services, except for any taxes based upon CFI's net income, assets or worth. CFI shall invoice Client for amounts it is obligated to collect or is allowed to recover as such taxes, tariffs and duties. Client's obligations for the payment of taxes, tariffs and duties payable hereunder shall survive the expiration or termination of this Agreement. If the transaction or the Client is exempt from taxes, CFI will not charge tax provided that Client timely provides CFI with a valid exemption certificate or other evidence of such exemption in a form reasonably acceptable to CFI. To the extent permitted under applicable laws and regulations, CFI will not charge tax on transactions for the electronic delivery of the Services.

5.   Ownership of Intellectual Property. The Software, including, without limitation, the CORES Platform, and Documentation, and all copies thereof, shall remain the exclusive property of CFI and/or its third-party licensors. All applicable Intellectual Property rights, including, without limitation, copyrights, trademarks, logos, and patents, shall remain vested in CFI and/or its third-party licensors. Client shall not claim, register, alter or modify, any interest in such Intellectual Property rights, including, without limitation, copyrights, trademarks, logos, and patents, nor shall Client nor attempt to do any of the foregoing. Client shall not translate any of the CFI trademarks into any other language or alphabet. Notwithstanding the foregoing, Client shall always have title to data input and output arising out of the use of the Software, and any computer programs developed by or for Client using output of the Software as input to another source, and which do not include any logic and code of the Software, and such shall remain the

exclusive property of the Client. Client acknowledges and agrees that CFI may seek equitable relief at any time to remedy a violation or threatened violation of the restrictions set forth herein regarding the use and protection of the Software and Documentation.

6. Warranties and Disclaimers

6.1   Limited Warranty. During the term of this Agreement, CFI and its Providers warrant only to Client that the Subscription and Software will be accessible through the Internet and that CLIENT's use of the Software and Subscription will not be materially limited. CLIENT'S SOLE AND EXCLUSIVE REMEDY, AND CFI'S SOLE AND EXCLUSIVE LIABILITY, FOR BREACH OF THIS WARRANTY WILL BE REACTIVATION OF THE SUBSCRIPTION TO THE SOFTWARE UPON CFI'S RECEIPT OF WRITTEN NOTIFICATION FROM CLIENT THAT SUCH ACCESS IS NOT WORKING OR IN COMPLIANCE OR THAT IT IS LIMITED. CFI AND ITS PROVIDERS DO NOT WARRANT THAT THE SUBSCRIPTION, SOFTWARE THERETO, SERVERS, AND/OR TELEPHONY INFRASTRUCTURE WILL MEET CLIENT'S REQUIREMENTS, WILL BE UNINTERRUPTED OR ERROR-FREE, OR WILL MEET ANY PARTICULAR CRITERIA OR PERFORMANCE, QUALITY, ACCURACY, PURPOSE, OR NEED. Because the foregoing Limited Warranty relates to the availability of the Software, which may be used on a daily basis, no action for breach of such Limited Warranty may be commenced unless Client has provided CFI with written notice and an opportunity to cure within the thirty (30) calendar days immediately following the date of the alleged breach.

6.2   Disclaimer. EXCEPT FOR THE LIMITED EXPRESS WARRANTY PROVIDED ABOVE, CFI AND ITS PROVIDERS MAKE NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ESPECIALLY RELATING TO THIRD PARTY INTEGRATIONS DATA ACCURACY. CLIENT ACKNOWLEDGES THAT NO REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THIS AGREEMENT HAVE BEEN MADE RESPECTING THE SOFTWARE, THE SUBSCRIPTION, OR THE SERVICES TO BE PROVIDED BY CFI AND ITS PROVIDERS, AND THAT CLIENT HAS NOT RELIED ON ANY REPRESENTATION NOT EXPRESSLY SET OUT HEREIN. FURTHER, CLIENT ACKNOWLEDGES AND AGREES THAT THE INTERNET IS NOT ESTABLISHED OR MAINTAINED BY CFI, THAT CFI HAS NO CONTROL OVER THE INTERNET, AND THAT CFI IS NOT LIABLE FOR THE DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET WHICH MIGHT RESTRICT OR PROHIBIT THE OPERATION OF THE SOFTWARE, THE SUBSCRIPTION, OR THE PROVISION OF THE SERVICES. ADDITIONALLY, ALL BACKGROUND SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, INCLUDING ANY WARRANTIES OR REPRESENTATIONS OF ACCURACY OR COMPLETENESS. NEITHER CFI OR ITS THIRD PARTY SUPPLIERS OR PROVIDERS MAKE REPRESENTATIONS, COVENANTS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO THE SERVICES OR MATERIALS DELIVERED OR THE MEDIUM OF DELIVERY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF CONDITION, QUALITY, DURABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IN RESPECT OF ANY WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE. NEITHER CFI NOR ITS THIRD-PARTY SUPPLIERS AND/OR PROVIDERS SHALL HAVE ANY LIABILITY FOR CONCLUSIONS REACHED FROM USE OF THE SERVICES OR MATERIALS. CFI and its third party suppliers / providers shall not be liable to the CLIENT, the user, or to anyone else for any loss or damage of any kind, including without limitation, special, indirect, incidental or consequential damages, with respect to the Background Services or materials delivered or the medium of distribution, regardless of whether such liability is based in tort, contract or otherwise from the use of the Background Services. Neither CFI nor its third party suppliers / providers shall be liable to the CLIENT for any loss, injury, claim, liability or damage of any kind resulting in any way from (a) errors in or omissions from the Background Services or materials available or not included therein, (b) the unavailability or interruption of the Background Services or materials, (c) use of the Background Services or materials (regardless of whether the Client received any assistance from CFI or any supplier and/or provider in using the Background Services or materials), (d) the content of the Background Services, (e) use of the Background Services or authorized printouts by an authorized individual, user or organization, authorized user or other third parties.

6.3   Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR ANY EXHIBITS OR ATTACHMENTS HERETO AND TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, CFI (INCLUDING ITS AFFILIATES) SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY EXHIBIT, QUOTES OR ORDERS HEREUNDER (HOWEVER ARISING, UNDER ANY THEORY INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, CONTRACT OR STRICT LIABILITY), INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR INTERRUPTED COMMUNICATIONS, LOST DATA, LOST REVENUE, LOST PROFITS, LOSS OF TECHNOLOGY, LOSS OF RIGHTS OR SOFTWARE OR SERVICES AND/OR DAMAGES THAT RESULT FROM INCONVENIENCE, DELAY OR LOSS OF USE OF ANY INFORMATION OR DATA OR OF THE SOFTWARE OR SERVICES, EVEN IF CFI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN. SUBJECT TO THE FOREGOING AND TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, FOR THIS AGREEMENT AND EACH QUOTE FOR SOFTWARE OR SERVICES HEREUNDER, IN NO CASE SHALL CFI'S (INCLUDING ITS AFFILIATES) MAXIMUM AGGREGATE LIABILITY DURING ANY TWELVE (12) MONTH PERIOD DURING THE TERM OF THIS AGREEMENT (THE FIRST OF WHICH SHALL COMMENCE ON THE EFFECTIVE DATE OF THIS AGREEMENT) UNDER ANY CIRCUMSTANCES EXCEED THE AMOUNTS ACTUALLY PAID TO CFI BY CLIENT PURSUANT TO THIS AGREEMENT DURING SUCH TWELVE (12) MONTH PERIOD (EXCLUDING TRAVEL EXPENSES). THE PARTIES UNDERSTAND AND AGREE THAT THE LIMITATION OF LIABILITY SET FORTH IN THIS AGREEMENT REPRESENTS A REASONABLE ALLOCATION OF RISKS, AND EACH PARTY EXPRESSLY CONSENTS TO SUCH ALLOCATION. CFI SHALL HAVE NO LIABILITY OF ANY KIND IN THE EVENT CLIENT'S RECORDS OR OTHER DATA SUBMITTED FOR PROCESSING ARE LOST OR DAMAGED.

6.4   Limitation of Warranties. Except the Limited Warranty in Section 6.1, Client acknowledges and agrees that CFI has made no agreements, representations or warranties other than those expressly set forth in this agreement.

7. Release and Indemnity

7.1.   Release from Liability. CLIENT agrees to indemnify, defend, hold harmless, and release and forever discharge CFI (and its Providers, directors, officers, managers, employees, affiliates, successors, members, auditors, advisors, shareholders, and

assigns) from and against all losses, damages (including incidental and consequential damages), expenses (including court costs, reasonable attorneys' fees, interest expenses and amounts paid in compromise or settlement), suits, actions, claims, penalties, liabilities, demands, causes of action, or obligations, related to, caused by, arising from or on account of the activities of CLIENT or any other person, including but not limited to any claims asserted against CFI relating in any way to the provision of services or products, the performance of CFI's obligations, the services or products provided by CFI (except to the extent that such claims arise out of or result solely from the gross negligence or willful misconduct of CFI, its employees or agents), or the failure of CLIENT to comply with any covenant, provision, or agreement of CLIENT contained herein. The obligation of CLIENT to indemnify CFI shall also include, without limitation, claims relating to any modification to the Software or the Subscription by anyone other than a CFI employee or contractor.

7.2. Release from Liability. CLIENT ACKNOWLEDGES THAT PERSONS OTHER THAN CFI MAY INTERFERE WITH THE PROPER FUNCTIONING OF THE SUBSCRIPTION AND THE SOFTWARE THERE, I.E. "HACK" THE SOFTWARE, AND THAT IT MAY BE DIFFICULT TO DETERMINE PRECISELY WHO TOOK SUCH ACTIONS OR WHEN THEY WERE TAKEN. CLIENT IS RESPONSIBLE FOR MONITORING THE USE OF THE SUBSCRIPTION AND THE SOFTWARE THEREIN ON A REGULAR BASIS TO BE CERTAIN THAT IT DOES NOT CONTAIN INAPPROPRIATE MATERIAL AND IS FUNCTIONING PROPERLY. IN THE EVENT CLIENT DISCOVERS ANY MATERIAL THAT SHOULD BE REMOVED FROM THE SUBSCRIPTION AND THE SOFTWARE OR THE CLIENT DATA THEREIN, IT WILL DO SO PROMPTLY OR, IF IT CANNOT DO SO, WILL IMMEDIATELY NOTIFY CFI IN WRITING.

8. Confidential Information

8.1 Confidential Information Defined. During the Term of this Agreement and in connection with each party's performance of their respective duties and obligations hereunder and thereunder, each party will disclose to the other ("Disclosing Party") and the other party shall receive ("Receiving Party") certain Confidential Information of the Disclosing Party. The term "Confidential Information" shall mean any and all information that the Disclosing Party discloses to the Receiving Party in connection with or related to this Agreement, whether disclosed verbally, electronically, visually, or in a written or other tangible or intangible form, including, but is not limited to, trade secrets, pricing information, terms of this Agreement, customers, customer lists, Intellectual Property, computer programs, software, documentation, formulas, data, inventions, techniques, financial, marketing or product development plans, personnel, audit results, designs, performance data, as to CFI, the Software and any other deliverables (including, without limitation, data, information, computer code and reports) provided in connection with the Subscription, and, as to Client, the Client's Information, as well as any other information that the Disclosing Party clearly communicates to the Receiving Party as confidential.

8.2 Duties with Regard to Confidential Information. The Receiving Party agrees that it will only use the Disclosing Party's Confidential Information in the performance of its obligations hereunder or as otherwise expressly provided in this Agreement, and that it will only disclose the Disclosing Party's Confidential Information only to those of its directors, officers, employees, consultants, agents, independent contractors, and professional advisers who need to know such information and who are subject to written agreements with the Receiving Party sufficient to enable the Receiving Party to require such persons to comply with the Receiving Party's confidentiality obligations hereunder. The Receiving Party agrees that it will treat all of the Disclosing Party's

Confidential Information with the same degree of care (but no less than reasonable care) as it accords its own confidential information.

Notwithstanding the foregoing or CFI's obligations elsewhere in this Section, Client understands that CFI does not require any information for the performance of Services hereunder, and that CFI cannot guarantee the security of Client Information when stored on Client's applicable equipment and hardware or transmitted or accessible when using the internet or other services providers. CFI shall not be liable or responsible to Client or any other party for any losses, damages, claims, costs or other obligations arising out of or relating to any unauthorized access to, disclosure or use of information stored by Client on the System, including, without limitation, while such information is transmitted or accessible through the Software, the internet, or services providers. Additionally, CFI shall not be responsible for any breach of security or confidentiality caused by Client's failure to maintain the confidentiality and control of its user identification numbers or passwords related to its use of the Software provided hereunder.

8.3 Exclusions from Confidential Information. Confidential Information does not include information that (a) is or becomes generally available to the public other than as a result of an unauthorized disclosure by the Receiving Party or its personnel; (b) has been or is obtained by the Receiving Party from an independent source without accompanying obligations of confidentiality; (c) is independently developed by the Receiving Party without reliance in any way on the Disclosing Party's Confidential Information; or (d) has been approved for unrestricted release by the Disclosing Party in writing. Additionally, the Receiving Party may disclose the Disclosing Party's Confidential Information where the Receiving Party is required by law to disclose information that is otherwise Confidential Information, provided (to the extent not prohibited by law) the Receiving Party has first notified the Disclosing Party in writing as soon as is commercially reasonable of such requirement to disclose the Disclosing Party's otherwise Confidential Information in order to permit the Disclosing Party to seek confidential treatment of such information. Additionally, Client agrees to reimbursement CFI at its then current hourly rate for such services for the number of hours spent by CFI responding to legal requests for Client Information in CFI possession.

8.4 Protection of Confidential Information. Notwithstanding the "Dispute Resolution" Section of this Agreement, the Receiving Party acknowledges that the Disclosing Party shall have the right to take all reasonable steps to protect the Disclosing Party's confidential and proprietary interests, including, but not limited to, injunctive relief in a court of law or equity and any other remedies as may be available at law or in equity in the event the Receiving Party does not fulfill its obligations under this Section.

8.5 Survival of Confidentiality Obligations. Each party's obligations of confidentiality pursuant to this Section for all Confidential Information disclosed between the parties during the term of this Agreement shall survive the expiration or termination of this Agreement as follows: (i) for Confidential Information consisting of trade secrets, for so long as such information remains a trade secret of the disclosing party or for five (5) years following the expiration or termination of this Agreement, whichever is longer, (ii) for Confidential Information consisting of the disclosing party's Client information or CFI's suppliers' information, indefinitely, and (iii) for all other Confidential Information, for five (5) years following the expiration or termination of this Agreement.

8.6 Termination of This Agreement. Upon termination of this Agreement or upon the Disclosing Party's written request, the Receiving Party agrees to terminate all use of the Disclosing Party's Confidential Information and to either to return to the Disclosing Party all copies of the Disclosing Party's Confidential Information in its possession or under its control or to provide the Disclosing Party

with a written notice from one of the Receiving Party's authorized representatives certifying that all copies of the Disclosing Party's Confidential Information in the Receiving Party's possession or control have been destroyed; *provided, however*, the Receiving Party may (at its option, but not its obligation) keep a copy of the Disclosing Party's Confidential Information in its archives, and the provisions of this Section shall continue with respect to such Confidential Information.

9. Term and Termination

9.1   Term. The term of this Agreement and the Services and Subscription herein, shall commence on the Effective Date and, unless terminated as set forth in this Section, shall (i) continue for an initial period ending **one (1) year** thereafter (the "Initial Term"), and (ii) shall automatically terminate unless and until Client exercises an option year (each a "Option Period") on the anniversary of the Effective Date for additional successive one-year terms (each Option Period with the Initial Term shall be referred to as the collective "Term"); *provided*, *however*, in Client does not exercise an option year as set forth above, the Services and Software shall immediately terminate and Client and its Users shall immediately cease all use and access of the Services and Software as of the expiration date of the Initial Term or a then-current Option Period.

9.2   Termination for Cause. This Agreement or any Exhibit or Quotes hereto may be terminated as follows:

a.   by CFI upon the breach by Client of any of its payment obligations under this Agreement or any Quote or Exhibit hereto, which breach has not been cured within five (5) days after Client has received written notice thereof,

b.   by one party upon the breach by the other party of any of such other party's material obligations under this Agreement or any Quote or Statement of Work hereto that has not been cured within thirty (30) days after the breaching party has received written notice thereof (*provided, however*, that there shall be no cure period in the event of a breach by Client of its obligations related to CFI's Confidential Information and Intellectual Property rights), or

c.   by CFI if all or a substantial portion of the assets of Client are transferred to an assignee for the benefit of creditors or Client files or has filed against it a petition for liquidation under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days.

If the basis for termination for cause applies only to a specific Quote or Statement of Work, the non-breaching party may elect to terminate only the affected Quote and associated Statement of Work, in which case this Agreement and other Quotes will remain in full force and effect. A breach of the terms of this Agreement or a Quote by a User shall be deemed to be a breach of the terms of this Agreement by Client.

9.3   Effective Date of Termination for Cause. Termination for cause based upon 9.1(a) above shall be effective on the 6th day after Client received the original written notice of breach if cure is not made or if some interim arrangement has not been reached between the parties (and agreed in writing) during the five (5) day cure period. Termination for cause based upon 9.1(b) above shall be effective on the 31st day after the breaching party received the original written notice of breach if cure is not made or if some interim arrangement has not been reached between the parties (and agreed in writing) during the thirty (30) day cure period; *provided, however*, if a breach under 9.1(b) is not subject to cure (e.g., disclosure of a party's Confidential Information), termination for cause is effective immediately upon the party providing written notice of termination to the breaching party consistent with the notices provision of this Agreement. Termination for cause based upon 9.1(c) above shall be effective immediately after the assignment for benefit of creditors has been made or the filing of a petition for liquidation under bankruptcy or other insolvency laws and such have not been dismissed, dissolved or the petition lifted or stayed.

9.4   Termination for Convenience. If Client exercises its option to terminate this Agreement for its convenience pursuant to Attachment 1 and W. Va. CSR § 148-1-5.2(b), there shall be no refund to Client and all outstanding amounts due to CFI for any and all professional services that have been performed by CFI shall be paid to CFI pursuant to the payment terms in this Agreement.

9.5   Effects of Termination. Termination of this Agreement shall result in the termination of all outstanding Quotes, Statements of Work and Exhibits, and termination of all outstanding Quotes, Statements of Work and Exhibits shall result in the termination of this Agreement. Upon termination of this Agreement and/or any Quotes, Statements of Work and Exhibits for any reason, any amounts owed to CFI under this Agreement or any Quotes, Statements of Work and Exhibits, regardless of whether not yet due and payable, will be accelerated and deemed immediately due and payable (including, without limitation, the remaining balance of unpaid fees for professional services and Travel Expenses). All Subscriptions, including, without limitation, Services and all Software use and access, granted under this Agreement and all Quotes, Statements of Work and Exhibits hereto shall immediately terminate upon termination of this Agreement. All Subscriptions, including, without limitation, Services and all Software use and access, granted pursuant to an applicable Quotes, Statements of Work and Exhibits shall terminate upon the expiration or termination of the applicable Quotes, Statements of Work and Exhibits. Upon termination of this Agreement, CFI will immediately cease performing all Services and terminate Client's and its User access to the Software. CFI shall have no obligation for retaining or maintaining a copy of any such Client's Information or data from the Software following the date of expiration or termination of the Quotes, Statements of Work and Exhibits governing such information or (if sooner) the expiration or termination of this Agreement. CFI shall be entitled, without further liability, to destroy all such Client's Information or data from the Software following the date of expiration or termination of the Quotes, Statements of Work and Exhibits governing such information or (if sooner) the expiration or termination of this Agreement. If Client receives Hosted Services from CFI, the following termination provisions also apply upon termination of this Agreement for any reason:

a.   Client's access to the Hosted Services (including, without limitation, all access to the hosted environments and data) shall be suspended;

b.   Client shall immediately surrender to CFI any Internet protocol numbers, addresses or CFI-owned domain names assigned to Client in connection with the Hosted Services delivered hereunder;

c.   Unless other arrangements are requested by Client within five (5) days of the effective date of termination and provided Client has paid all outstanding amounts due to CFI under this Agreement, for the five (5) day period following the effective date of termination of this Agreement CFI shall provide Client with access to its data or information within the Hosted Services for Client to download the Client Data or information; and

d.   Any and all Client Data shall be overwritten, erased, encrypted or otherwise rendered unrecognizable upon the sooner to occur of (i) Client's confirmation that it has downloaded the Client Data or information, or (ii) expiration of the period of access as set forth in subsection (c) above, or (ii) thirty (30) days from the effective date of termination of this Agreement.

9.6   Other Termination/Suspension of Services. In addition to all other remedies to which it may be entitled hereunder, CFI shall have the right, without notice to Client, to immediately suspend the provision of any and all Software and Services hereunder,

including, without limitation, access to the Software and Support Services, in the event of (i) any breach or threatened breach of this Agreement or any Quotes, Statements of Work and Exhibits hereto by Client or its Users or contractors, (ii) any requirement or direction by any legal or regulatory body having jurisdiction over Client, CFI or its suppliers or third party service providers, or (iii) any change in law that renders CFI provision of the Software unlawful or otherwise non-compliant with applicable law. Client's payment obligations shall continue during any period of suspension pursuant to this Section. Client agrees that CFI shall have no liability to Client, and Client waives any claim or action against CFI, in the event of termination of access to the Software as provided in this Agreement. CFI shall make reasonable efforts to restart such access upon Client's cure or correction of the event of default or breach unless it has already terminated this Agreement or any Quotes, Statements of Work and Exhibits as provided hereunder. Client shall reimburse and pay to CFI all charges, expenses and fees incurred by CFI or payable by CFI to third parties as a result of such suspension of Software or reconnection/restart of such access to such Software.

9.7 Collection Costs. CFI shall be entitled to recover from Client any and all of CFI's attorneys' charges and expenses, including, without limitation, court costs, incurred by CFI in connection with any attempts to pursue collection of amounts owed by Client hereunder or otherwise incurred by CFI in enforcing of the terms and conditions of this Agreement or any Quotes, Statements of Work and Exhibits hereto.

9.8 Survival. The provisions of this Agreement that, by sense and context of the provision, are intended to survive performance by either or both parties shall also survive the completion, expiration, termination or cancellation of this Agreement.

9.9 The termination of this Agreement shall not relieve the Client of its obligation to pay any Charges and Fees incurred hereunder prior to the effective date of such termination or expiration or that result or arise from the termination of this Agreement (as provided in herein).

10. GENERAL PROVISIONS

a) Entire Agreement; Waiver. This Agreement and the Schedules attached hereto constitute the entire agreement between the Parties and supersede all prior agreements, understandings and arrangements between the Parties with respect to the subject matter thereof. Any provisions, terms or conditions on Client's purchase orders which are, in any way, inconsistent with or in addition to the terms and conditions of this Agreement shall not be binding upon CFI and shall have no applicability hereunder. The failure of any Party to insist, in any one or more instances, upon the performance of any term or condition of this Agreement shall not be construed as a waiver or relinquishment of any right granted hereunder or the future performance of such term or condition.

b) Governing Law. This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of West Virginia (United States of America) regardless of application of choice of law rules or principles. This Agreement expressly excludes the United Nations Convention on Contracts for the International Sale of Goods. The original language of this Agreement is English. In case of any discrepancies or conflicts between the English text version of this Agreement and any translation, the English version shall prevail.

c) Assignment. Client may not assign or otherwise transfer, in whole or in part, or in any other manner, any rights, obligations, or any interest in or under this Agreement without the prior written consent of CFI and any purported attempt to do so will be null and void. A merger or other acquisition by a third party will be treated as an assignment. CFI may at any time and without Client's consent assign all or a portion of its rights and duties under this Agreement to a company or companies wholly owning, owned by, or in common

ownership with CFI. This Agreement shall be binding on each party's successors and permitted assigns. Additionally, CFI may delegate the performance of certain Services to its Affiliates and third-party providers, provided CFI remains responsible to Client for the delivery of such Services and the compliance of such Affiliates and third-party providers with this Agreement.

d) Change in Subcontractors. CFI has the right to change, modify and otherwise convert its services providers (including, without limitation, its affiliates) and subcontractors used to provide the Services and terms under which the Services are offered, provided that the basic functionality and quality of the Services will not be materially adversely affected.

e) Interpretation. In the event of a conflict between this Agreement and the terms of any Exhibit, Statement of Work or Quote attached hereto, the terms of the Exhibit, Statement of Work or Quote shall prevail and control the interpretation of this Agreement. The Exhibits, Statement of Work or Quote, attachments, and schedules together with this Agreement shall be interpreted as a single document.

f) Force Majeure. Excluding payment obligations, no breach of any obligation of a party to this Agreement or Exhibit, Statement of Work or Quote shall constitute an event of default or breach to the extent it arises out of a cause, existing or future, that is beyond the reasonable control and without negligence of the party otherwise chargeable with breach or default, including without limitation, flood, war, terrorists' acts, riot, theft, labor disputes, earthquake or natural disaster. Either party desiring to rely upon any of the foregoing as an excuse for non-performance, default or breach, shall, when the cause arises, give to the other party prompt notice of the facts that constitute such cause and when the cause ceases to exist, give prompt notice thereof to the other party.

g) Limitations Period. Client agrees not to bring a legal action against CFI more than two years after the later of the date on which the cause of action accrues or the date on which the party discovered or with reasonable investigation should have discovered the cause of action.

h) Prevailing Party. The prevailing party in any arbitration, suit, or action brought by one party against the other party to enforce the terms of this Agreement, any Exhibits or Quotes or Statement of Works hereto or any rights or obligations hereunder, shall be entitled to receive its reasonable costs, expenses, and attorneys' charges of bringing such arbitration, suit, or action.

i) Independent Contractors. The parties are independent contractors, and no agency, partnership, franchise, joint venture or employment relationship is intended or created by this Agreement. Neither party shall make any statement, representation, warranty or other commitment on behalf of the other party.

j) No Licenses. There are no licenses to the Software, express or implied, granted or provided under this Agreement. Neither party shall exceed the scope of the Subscription granted hereunder. CFI reserves all rights not specifically granted to Client.

k) Notice. All notices shall be in writing and sent by certified mail (return receipt requested), overnight courier, or delivered personally to the addresses indicated on the first page of this Agreement for the applicable intended recipient, or such other address as either party may indicate by at least ten (10) days prior written notice to the other party. All notices to CFI shall be directed to the attention of the President/CEO of CFI, with a copy of all such notices also sent to CFI to the attention of CFI's General Counsel at the same address as CFI. Notice will be effective on the date shown on the delivery receipt or, in the case of personal delivery, actual receipt. All notices required pursuant to this Agreement shall be provided in strict compliance with this Section.

l) Severability. If any provision herein is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any

way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

m) No Third-Party Beneficiaries. CFI and Client agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this Agreement.

n) Headings. The headings used in this Agreement, Exhibits, Quotes and Statements of Work are solely for convenience and shall not be considered in its interpretation.

o) Authorized Signer. Each party represents that the person signing this Agreement and any Exhibit, Statement of Work or Quotes hereto has been properly authorized and empowered to execute and deliver this Agreement and any Exhibit, Statement of Work or Quotes hereto on behalf of such party. This Agreement becomes null and void if the time between the earlier dated signature and the later dated signature exceeds sixty (60) days, unless waived by CFI.

p) Incorporation by Reference. Any Attachments to this Agreement and any Exhibit, Statement of Work or Quote now existing and hereafter executed or issued that are made pursuant to this Agreement shall be deemed to be part of this Agreement and are incorporated into this Agreement by reference.

q) Amendments. Except as otherwise provided herein or in an applicable Exhibit, Statement of Work or Quote, this Agreement and any Exhibit, Statement of Work or Quote may be changed or modified only in a written document signed by duly authorized representatives of both parties.

r) Counterparts/Duplicate Originals. This Agreement and any Exhibit, Statement of Work or Quote may be executed by the parties in one or more counterparts or duplicate originals, and each of which when so executed shall be an original, but all such counterparts shall constitute one and the same document.

s) Publicity/Use of Trademarks. Client agrees to permit the occasional use of Client's name and logo as well as reference to this Agreement and the Services in their respective promotional advertising, press releases and public relations efforts. All such use will be only in a manner that reflects positively upon the other party. CFI may place Client's name on a list of CFI's customers.

t) Non-Solicitation. Client shall not, without CFI's prior written consent, directly or indirectly, solicit for employment or hire any Restricted Employee (as defined herein) while such person is employed by CFI and for the 12-month period starting on the earlier of: (i) termination of such Restricted Employee's employment with CFI, or (ii) termination or expiration of this Agreement. "Restricted Employee" means any former or current employee of CFI or its Affiliates that provided services on behalf of CFI hereunder or that Client became aware of or came into contact with during CFI's performance of its obligations under this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate originals by their duly authorized representatives as of the day and year set forth above. This Agreement becomes null and void if the time between the earlier dated signature and the later dated signature exceeds sixty (60) days, unless waived by CFI.

Collaborative Fusion, Inc.   **State of West Virginia Department of Health and Human Services**

By:＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿   By:＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

Name:＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿   Name:＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

Title:＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿   Title:＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

Date:＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿   Date:＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

/End of Agreement; Attachment 1 and Exhibits follow.

ATTACHMENT 1 TO SOFTWARE SERVICES AGREEMENT
Provisions Required for Federally Funded Procurements

[intentionally blank – Attachment 1 follows hereafter]

Provisions Required for Federally Funded Procurements

1. **Federal Funds:** This purchase is being funded in whole or in part with Federal Funds and is subject to the requirements established in 2 CFR § 200. Pursuant to 2 CFR § 200.317 the provisions of 2 CFR §§ 200.322 and 200.326 are expressly included in this solicitation below and incorporated into any contract resulting from this solicitation by reference.

2. **2 CFR §200.322 Procurement of recovered materials:** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

3. **§200.326 Contract provisions:** Pursuant to the requirements contained in 2 CFR §§ 200.317 and 200.326, the following provisions are included any contract resulting from this solicitation, to the extent that the provisions are applicable.

   (A) At a minimum, the administrative, contractual, or legal remedies contained in W. Va. CSR § 148-1-5 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract resulting from this solicitation in instances where contractors violate or breach contract terms for contracts for more than the simplified acquisition threshold currently set at $150,000 (which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908).,

   West Virginia Code of State Rules § 148-1-5 states:

   ### § 148-1-5. Remedies.

   5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

   5.2. Contract Cancellation.

5.2.a. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.a.1. The vendor agrees to the cancellation;

5.2.a.2. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.a.3. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.a.4. The existence of an organizational conflict of interest is identified;

5.2.a.5. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

5.2.a.6. Violation of any federal, state, or local law, regulation, or ordinance.

5.2.b. The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

5.2.c. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

5.2.d. Re-Award. The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

5.2.d.1. The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

5.2.d.2. The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.

Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.

5.3. Non-Responsible. If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

5.4. Suspension.

5.4.a. The Director may suspend, for a period not to exceed one (1) year, the right of a vendor to bid on procurements issued by the Purchasing Division or any state spending unit under its authority if:

5.4.a.1. The vendor has exhibited a pattern of submitting bids and then requesting that its bid be withdrawn after bids have been publicly opened. For purposes of this provision, a pattern is two or more instances in any 12 month period.

5.4.a.2. The vendor has exhibited a pattern of poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to, two or more instances of any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; and failure to deliver commodities, services, or printing at the quality level required by the contract.

5.4.a.3. The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

5.4.a.4. The vendor's actions have given rise to one or more of the grounds for debarment listed in section 5A-3-33d.

5.4.b. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:

5.4.b.1. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.

5.4.b.2. A notice of suspension must inform the vendor:

5.4.b.2.A. Of the grounds for the suspension;

5.4.b.2.B. Of the duration of the suspension;

5.4.b.2.C. Of the right to request a hearing contesting the suspension;

5.4.b.2.D. That a request for a hearing must be served on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension;

5.4.b.2.E. That the vendor's failure to request a hearing no later than five (5) working days of the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and

5.4.b.2.F. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.

5.4.b.3. A vendor's failure to serve a request for hearing on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.5.4.b.4. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.

5.4.b.5. Within five (5) working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.

5.4.b.6. The hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.

5.4.c. A vendor may appeal a decision of the Director to the Secretary of Administration. The appeal must be in writing and served on the Secretary no later than five (5) working days of receipt of the Director's decision.

5.4.d. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.e. Any notice or service related to suspension actions or proceedings must be provided by   certified mail, return receipt requested.

5.5. Vendor Debarment. The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in West Virginia Code § 5A-3-33d or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

5.5.a. Debarment proceedings shall be conducted in accordance with West Virginia Code § 5A-3-33e and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

5.5.b. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached. Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

5.5.c. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor,

including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated. 5.5.d. Pursuant to West Virginia Code section 5A-3-33e(e), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.

5.5.e. List of Debarred Vendors. The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

5.6. Damages.

5.6.a. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.b. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.c. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

(B) At a minimum, the termination for cause and for convenience provisions contained in W. Va. CSR § 148-1-5.2 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract in excess of $10,000 resulting from this solicitation.

West Virginia Code of State Rules § 148-1-5.2 states:

5.2. Contract Cancellation.

5.2.a. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.a.1. The vendor agrees to the cancellation;

5.2.a.2. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.a.3. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.a.4. The existence of an organizational conflict of interest is identified;

5.2.a.5. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

5.2.a.6. Violation of any federal, state, or local law, regulation, or ordinance.

5.2.b. The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

5.2.c. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

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

41 CFR § 60-1.3 defines "Federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

Accordingly, to the extent that this contract meets the definition of a "federally assisted construction contract" under 41 CFR Part 60-1.3, the following clause is included:

41 CFR 60-1.4 - Equal opportunity clause. (b) *Federally assisted construction contracts.*

In accordance with the requirements of described above, and except as otherwise provided in the applicable regulations, the following language is hereby incorporated into any contract resulting from this solicitation involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may

request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(D) Davis-Bacon Act, as amended (40 U.S.C.3141–3148). Any construction contract resulting from this solicitation hereby requires compliance with the Davis-Bacon Act (40 U.S.C.3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor

Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week.

Any construction contract resulting from this solicitation hereby requires compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, any contract resulting from this solicitation in excess of $100,000 that involve the employment of mechanics or laborers hereby requires compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

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

(G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended— Any contract resulting from this solicitation in excess of $150,000 hereby requires compliance with all applicable standards, orders or regulations issued pursuant to t**he Clean Air Act (42 U.S.C.** 7401–7671q) and the Federal Water Pollution Control Act as amended (**33 U.S.C.**1251–1387).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)— Any contract resulting from this solicitation will not be awarded to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), ''Debarment and Suspension.''

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

For purposes of this Agreement, the following definitions shall apply:

1. "**Administrator**" means an employee, officer, director or consultant of Client to whom Client has provided a user account and certain rights to administer the Subscription on behalf of Client.
2. "**Client Data**" means data input by Client or its authorized Users into the Subscription and/or Software thereto.
3. **"CORES Platform"** means the computer software programs developed and owned by CFI that is part of the Software provided via the Subscription to the CLIENT, in machine executable object code form and the Documentation, together with Software Updates.
4. **"Custom Software"** means purchased customizations or modifications to the Software pursuant to a Statement of Work hereto which sets forth the customizations or modifications, the fees for such development services, the ownership of such, and whether such customizations or modifications to the Software are subject to Support Services.
5. **"Documentation"** means the user manuals, requirements, specifications, training materials, and any other documents, materials, information or guidance, whether supplied as printed material or in electronic form, provided by CFI in conjunction with the purchase, training, use, technical support or update of the Software and Services provided hereunder.
6. **"Effective Date"** means the execution date of this Agreement.
7. "**Initial Term**" shall mean as set forth in Section 9 of the Agreement.
8. **"Intellectual Property"** means any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing: copyrights (including derivative works, as defined by the United States Copyright Act, thereof), trademarks, trade names, Trade Secrets, mask work rights, know-how, patents and any other intellectual and industrial property and proprietary rights, of every kind and nature throughout the universe and however designated, and including all registrations, applications, renewals and extensions thereof, under applicable law as it may currently exist or as it may in the future exist.
9. "**Option Period**" shall mean as set forth in Section 9 of the Agreement.
10. "**Party**" means CFI or the Client individually and "Parties" shall mean CFI and the Client collectively.
11. **"Services"** means the services set forth in Section 3 in the Agreement and the Exhibits thereto as applicable.
12. "**Software**," means, individually and collectively, all of the software, including, without limitation, the CORES Platform, granted to Client from CFI via the Subscription as identified on Exhibit C hereto. Software includes Software Updates to such software.
13. "**Software Updates**" means any technical correction, patch, bug fix, enhancement or other software release to the Software that is provided to Client pursuant to the Client purchased Support Services and/or the Subscription.
14. **"Source Code"** means a series of instructions or statements in an English-like high level computer language such as but not limited to PHP, FORTRAN, C, or PASCAL, or in a relatively low-level language such as the assembly language for a particular processor. Source Code is normally readable by humans trained in the particular computer language in question. It is transformed by compiler into machine readable Object Code (or Executable Code) for actual use on a computer.
15. "**Support Services**" means the technical support services provided by CFI pursuant to the Agreement and Exhibit E. May also be referred to as "Software Support Services."
16. **"Statement of Work"** means a document(s) setting forth in detail services to be performed by CFI pursuant to the fees therein, all subject to and to be governed by this Agreement. A Statement of Work may be amended only in writing with the mutual agreement of the parties from time to time in accordance with this Agreement.
17. "**Subscription**" means a SaaS based subscription for Client to use and access the proprietary Software, Software Updates, online and/or hard-copy documentation and user guides as set forth in Section 4 of this Agreement and for the Term set forth in Exhibit A.
18. "**Term**" shall mean as set forth in Section 9 of the Agreement.
19. **"Use"** means accessing and using the Subscription and Software therein in accordance with the terms and conditions of the Agreement (including, without limitation, any additional limitations or restrictions specified therein) and the applicable Documentation.
20. **"User"** means any authorized employee, contractor, or third-party representative of Client who accesses the Subscription and Software therein.

/End of Exhibit A

EXHIBIT B TO SOFTWARE SERVICES AGREEMENT

THIRD-PARTY FUNCTIONALITY USED TO SUPPORT THE SUBSCRIPTION

Minimum Requirements:
- o   Connection to the Internet
- o   Ability to read Comma-Separated Values (CSV) Files
- o   Browser Requirements
    - o   Vendor Supported
    - o   JavaScript Enabled
    - o   Cookies Enabled
    - o   128-bit SSL Enabled
    - o   Pop-up Blocker Disabled

Recommended Browsers:
- o   Microsoft Internet Explorer, version 11 or later
- o   Mozilla Firefox (most recent version)
- o   Chrome (most recent version)
- o   Edge (most recent version)

/End of Exhibit B

EXHIBIT C TO SOFTWARE SERVICES AGREEMENT
FEES AND PAYMENT SCHEDULE

Fees - Further to quote # Q-01937, dated July 27, 2020:

ITEM NUMBER	DESCRIPTION	SALES PRICE	QTY	TOTAL PRICE
	Year 1 Subscriptions and Consulting Services			
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** Year 1/Deliverable 6 CORES HAN	$46,421.00	1	$46,421.00
700-P-SCP-1	**Consulting Services - Service Credit Hours** Client Support Support Engineer Off-site Year 1/Deliverable 7 Technical assistance performed as needed not to exceed 15 hour of technical assistance per month.	$843.36	1	$843.36
800-R-WBT-1	**Training Center - Web-Based Training** CORES Web-based Administrator Training (includes one (1) two-hour training session for up to 30 students) Year 2/Deliverable 1 & 2 CORES HAN User & Admiinistrator Training	$500.00	1	$500.00
800-R-WBT-1	**Training Center - Web-Based Training** CORES Web-based Administrator Training (includes one (1) two-hour training session for up to 30 students) Year 3/Deliverable 1 & 2 User and State/LHD Training DVD	$500.00	1	$500.00
700-P-SCP-1	**Consulting Services - Service Credit Hours** Client Support Support Engineer Off-site Year 2/Deliverable 4 Technical assistance not to exceed 10 hours per month.	$562.20	1	$562.20
700-P-SCP-1	**Consulting Services - Service Credit Hours** Client Support Support Engineer Off-site Year 4/Deliverable 4 Technical assistance as needed not to exceed 5 hours per month.	$281.16	1	$281.16
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** CORES Implementation Package Year 1/Deliverable 1, 2, 3, & 5 CORES HAN Implementation Package	$0.00	1	$0.00
800-R-WBT-1	**Training Center - Web-Based Training** CORES Web-based Administrator Training (includes one (1) two-hour training session for up to 30 students) Year 1/Deliverable 4 CORES HAN Administrator Training DVD	$500.00	1	$500.00
800-R-WBT-1	**Training Center - Web-Based Training** CORES Web-based Administrator Training (includes one (1) two-hour training session for up to 30 students) Year 4/Deliverable 1 & 2 CORES HAN User & Administrator Trainig DVD	$500.00	1	$500.00
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** CORES Health Alert Network (HAN) Year 3/Deliverable 3 CORES HAN	$46,421.00	1	$46,421.00
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** CORES Health Alert Network (HAN) Year 2/Deliverable 3 CORES HAN	$46,421.00	1	$46,421.00
300-S-HAN-1	**Subscription - CORES Health Alert Network (HAN)** CORES Health Alert Network (HAN) Year 4/Deliverable 3 CORES HAN	$46,421.00	1	$46,421.00
700-P-SCP-1	**Consulting Services - Service Credit Hours** Client Support Support Engineer Off-site Year 3/Deliverable 4 Technical assistance not to exceed 5 hours per month	$281.16	1	$281.16
	Total Year 1 Fees for Subscriptions and Consulting Services (plus applicable taxes)			**$189,651.88**

Payment Terms

For purposes of this <u>Exhibit C</u>, the "**Total Year 1 Fees for Subscriptions and Consulting Services**" set forth above in the amount of **$189,651.88.00 USD** (plus applicable taxes) shall be invoiced by CFI to Client upon CFI's receipt of this Agreement (executed by Client).

All charges in this Agreement are exclusive of taxes incurred by CFI in the performance of services and are in addition to any charges set forth in any other Statement of Works or Addenda or Quotes to the Agreement or in the Agreement. All invoices are due and payable thirty (30) days from the date of the invoice and interest fees/late charges (as provided in the Agreement) shall apply to any invoiced amounts not paid within the time periods provided in this Exhibit C or in the Agreement.

If Client is tax exempt, Client shall be responsible for providing all necessary documentation to show such tax-exempt status to CFI or to the taxing CLIENT.

Pricing contained herein is based on configuration outlined above. Some items may not be sold separately. Pricing is valid until the expiration date on the Quote identified above.

/End of Exhibit C

EXHIBIT D TO SOFTWARE SERVICES AGREEMENT
DESCRIPTION OF HOSTED SERVICES

1. <u>Definitions</u>. For the purposes of this Exhibit, the following words have the meaning set forth below:
   a. "**Juvare Cloud**" means the shared hardware environment for the purpose of hosting and maintaining software and data on behalf of CFI's customers. Juvare Cloud™ is a trademark of Juvare, LLC.
   b. "**Hosted System**" means the combination of hardware, software and networking components used by the Application Service Provider to deliver the Hosted Services.
   c. "**Hosted Services**" means the installation and management of specified software applications in the Juvare Cloud shared environment on behalf of a CFI customer and exclusively for the benefit of permitted users of the Software.

   All other capitalized terms in this Exhibit D shall have the same meaning set forth in the Agreement, except where otherwise stated in this Exhibit.

2. <u>Scope of Services</u>. CFI shall provide the following services to address the Software hosting needs:
   a. CFI shall provide Hosted Services to Client according to the provisions set forth in the Agreement and this Exhibit. CFI shall notify Client promptly upon creation of Hosted Services account and provide Client with all information required to access such account. CFI, at its sole discretion, may provide and maintain such Hosted System and/or deliver such Hosted Services internally or through a qualified subcontractor.
   b. CFI shall provide and maintain the facilities, hardware, and networking components as it sees fit to provide access to the Juvare Cloud for the benefit of Client.
   c. CFI shall perform, at its convenience and after notice to Client, scheduled updates of the Juvare Cloud as CFI or its hosting subcontractor sees fit. Such updates shall be scheduled to enable the simultaneous update to all of CFI-hosted customers.
   d. CFI or its hosting subcontractors shall be entitled to perform, as needed, emergency security updates to the Hosted System to protect the Juvare Cloud or the subcontractor's hosted environment from newly identified and widespread threats to the internet or internet-based services posed by worms, viruses and Trojans, or to address other vulnerabilities, with little or no notice to Client.
   e. CFI shall provide and maintain a redundant shared environment of the Juvare Cloud at a location that is geographically separated from its primary ASP Environment to ensure continuity of Software access and operation in the event of any unforeseen outage, disaster or other event that may interrupt service at the primary location of the Juvare Cloud. Failover to the redundant shared environment of the Juvare Cloud is a manual process and service will be activated by CFI immediately upon notification of malfunction, unavailability or failure of primary shared environment of the Juvare Cloud.
   f. CFI will notify (via CFI's Support Center) the Client of any planned service outages, i.e., for the purpose of performing Software updates or testing, or other inability to perform the services outlined in this Agreement.
   g. CFI shall schedule, perform and maintain a duplicate ("backup") record of Client's data within the Juvare Cloud. CFI shall perform hourly SQL transaction log backups and daily full backups. Data backups are limited to SQL database server files (i.e., those files having a .mdf or .ldf file extension). Data backups shall be retained on-site for four weeks.
   h. In addition to the Support Services pursuant to the Agreement and Exhibit E, CFI shall provide Client with Support Services for the Hosted Services which include assistance with problems related to the Juvare Cloud, data access, Hosted System access, or similar problems. Such Support Services for the Hosted Services may be accessible to Client via the same contact information provided to Client for Support Services; *provided, however*, services to be provided by CFI under this Exhibit and the Agreement do not include assistance with third party products; training; installation of plug-ins, boards or modules; API support; or board building; or maintenance, repair or correction of errors, defects or other operational or performance defects caused by Software configuration, modification, enhancement or programming provided by any party other than CFI or an CFI-certified technician. Any professional services described in this Section 2(h), or services required to repair or correct the errors and defects described in this Section 2(h), shall be provided on a fee-for-services basis at rates consistent with the CFI published price list in effect at the time services are rendered.
   i. Client may request performance of additional services by CFI. Such services shall be invoiced separately by CFI at the current published rate for labor and actual costs for materials and travel, if applicable.

3. <u>Client Obligations</u>
   a. The Client shall maintain, at Client's expense, a secure high-speed internet connection through which to access its hosted Software.
   b. The Client shall appoint a designated point of contact and two alternate points of contact for its interactions with CFI. Client shall provide CFI with the name, job title, physical address, telephone number, facsimile number and electronic mail address for each of the contact persons. Client shall keep such contact information up-to-date and promptly notify CFI, in writing via electronic mail, of any changes.
   c. The Client shall use reasonable security precautions in connection with the use of Services provided under this Agreement.
   d. The Client is responsible for any and all use and access to the Hosted System and Hosted Services by its employees, agents, contractors and permitted users of the Software and Hosted Services.
   e. The Client shall make best efforts to notify CFI in writing, via electronic mail or facsimile, of any planned non-emergency use of its Software, such as the occurrence of training sessions, drills and exercises, to aid CFI with the planning of any scheduled outages.
   f. The Client shall promptly notify CFI Support Center of any identified Hosted Services outage that impairs Client's access to the Software so that CFI may manually activate the redundant shared environment of the Juvare Cloud and immediately commence work to restore service to the primary shared environment of the Juvare Cloud.

b. The Client shall not conduct any load testing, performance testing or any other test of the Hosted System which may degrade performance or limit or adversely impact availability of the Juvare Cloud for other customers.

4. <u>Limitations on Use of Hosted Services</u>.
   a. Access to the Hosted System may not be rented, leased, sold, sub-leased, assigned or otherwise transferred for value or for no value by Client to any third party.
   b. Hosted System and Hosted Services are provided to support the Software which is an information management tool. Hosted Services are not guaranteed to be fault-tolerant or to provide fail-safe performance. Hosted Services are not appropriate for use in ultra-hazardous environments where failure of the Hosted System or the Juvare Cloud may lead to bodily injury, death or destruction of property.
   c. Installation of Software applications in the Juvare Cloud is limited to the Software included in the Subscription to Client by CFI and Software supplied by CFI either as a component of the Hosted System or to support delivery of Hosted Services.
   d. CFI shall only be responsible for performance of components of the Hosted System and Services under its control. CFI shall not be responsible for performance deficiencies caused by processes, hardware and software beyond its control including, but not limited to, information transmission delays due to excessive internet traffic, internet outages, or failure of Client to perform its obligations under this Agreement.
   e. The warranties set forth in the Agreement shall be void if any breach of this warranty or failure of the hosting environment or Software is caused by unauthorized use, improper use or modification to Software made by Client or its authorized users.

/End of Exhibit D

EXHIBIT E TO SOFTWARE SERVICES AGREEMENT
DESCRIPTION OF SUPPORT SERVICES FOR THE SOFTWARE

Support Services for the Software shall include the following (in addition to what is stated in the Agreement):
1) <u>Telephone Assistance</u>: Client's "Support Contact" (as defined below) may contact the CFI's Support Center for telephone assistance to seek advice relating to the use of Hosted Services and/or to identify and work to provide a "workaround" for Software problems, if available. Telephone assistance for non-Emergency Support Services shall be available during Standard Business Hours.
2) <u>Problem Assistance</u>: Client may submit problem assistance requests for Software assistance via the published CFI's support escalation procedures. CFI will notify Client if any request is beyond the scope of this Agreement and is, therefore, subject to additional charges. Requests for problem assistance for non-Emergency Support Services shall be available during Standard Business Hours.
3) <u>Software Updates</u>: CFI will update the Software as such updates and future versions of the applicable Software are made generally available to other CFI clients receiving Support Services at no additional charge. Any training required by Client related to such Software Updates and subsequent versions of the Software are provided for an additional charge. CFI shall provide Client with Software Updates to the Software, except for modules, as such Software Updates become available. Software Updates may include correction releases (i.e. patches provided to correct software anomalies), point releases (i.e. modifications to current generation of software including enhancement and improvements), and level releases (i.e. new releases or new generation of software), but shall not include new products, modules or plug-ins released commercially by CFI as independently priced items. For Modules, CFI shall provide Client any Software Updates released by CFI to correct errors affecting the operation of the Module, whether such error is caused by the Module itself or by an error in the Software, and any Software Updates required to maintain compatibility with the Software. CFI shall not provide for any enhancements to the Module.

Process to Obtain Support Services. To obtain Support Services or telephone or problem assistance, Client's designated Support Contact (an assigned Administrator that has completed the Administrator training and is listed as the Support Contact for Client) may contact CFI's Support Center as per CFI's published support procedures. Such support procedures include contacting CFI's Support Center via telephone, email and, when required, remote session support during Standard Business Hours and during Non-Standard Business Hours.

"Routine" Support Services includes assistance with the use and configuration of the software; assistance with identification and resolution of errors or defects assistance with application and use of new releases; general support for Board Builder and boards built by CFI or an CFI-certified technician; and access to WebEOC best practices, community-use status boards, "help" resources and other content made available through https://www.juvare.com/customers/technical-support, a "client only" web forum. Support Services may be accessed by Client by calling the Support Center via (877) 771-0911 or by electronic mail at support@juvare.com (subject to updates and changes by CFI).

"Emergency" Support Services shall be available 24 hours per day, 365 days per year. Emergency telephone support includes any assistance needed by Client while Software is in use operationally, whether for actual incidents or exercises excluding assistance with GIS interfaces, mapping or products, which is licensed by a third-party vendor is available only during Standard Business Hours. Emergency Support Services may be accessed by calling the Support Center via (877) 771-0911 (subject to updates and changes by CFI).

Client may request performance of additional services by CFI. Such services shall be invoiced separately by CFI at CFI's then current rate for such services and Travel Expenses, if applicable.

Limitations on Support Services. CFI will provide Support Services for only the current version of any Software. Client is obligated to promptly implement all Software Updates, work arounds and error corrections provided by CFI.

Problems or Issues Not Covered by Support Services. The following issues/problems, and all issues or problems caused by the following, are not covered by Support Services:
1. Alterations to the Software not authorized by CFI;
2. Unless otherwise agreed in an Exhibit or Statement of Work hereto, customizations to the Software from consulting or professional services provided by CFI, including applications design or recommendations by Client;
3. Software problems created by Client negligence or fault or failure to comply with any specifications, policies, procedures or requirements for use of the Software, including, without limitation, those set forth in CFI's Acceptance Use Policy and Privacy Policy;
4. Software problems caused by or related to a change in Client's service provider or internet access provider. Without limiting the generality of the foregoing, no reconfiguration of the Software due to a change in a service provider is covered under Support Services. Client should notify CFI prior to changing its service provider to enable CFI to provide configuration specifications to the new service provider. Any programming and configuration changes will be charged to Client at the then-current CFI's daily/hourly rates for such reconfiguration services;
5. Software problems that do not significantly impair or affect the operation of the Software;
6. Assistance with third party products; Training; Installation of plug-ins, boards or modules; API support; Board building; and
7. Client's failure to allow for the prompt implementation of Error corrections, Software updates, or any work-around provided or made available by CFI (including, without limitation and applicable at all times, implementation of more recently released, generally available versions or releases of the Software made available through Support Services that contain corrections to the relevant Error or where such Error does not occur when using such more recently released version or release of the Software).

Client Responsibilities. Client agrees to limit its requests for Support Services after Standard Business Hours to occasions when the problem related to the Software is critical to Client's operation and cannot wait to be addressed until Standard Business Hours on the next succeeding Contractor business day. CFI's provision of Support Services is subject to CLIENT documenting and promptly reporting all errors or malfunctions of the Software and Subscription to CFI. The CLIENT shall properly train its Users in the use and application of the Software and Subscription and the equipment on which it is used.

/End of Exhibits

PURCHASING AFFIDAVIT

CONSTRUCTION CONTRACTS: Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

ALL CONTRACTS: Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

AFFIRMATION: By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (*W. Va. Code* §61-5-3) that: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: Collaborative Fusion, Inc.

Authorized Signature: _(signature)_   Date: 7/28/20

State of GEORGIA

County of FULTON , to-wit:

Taken, subscribed, and sworn to before me this 28 day of July , 20 20

My Commission expires June 07 , 20 23

AFFIX SEAL HERE   _(Notary Seal: NATASHA BEGANOVIC, NOTARY PUBLIC, GWINNETT COUNTY, GEORGIA, JUNE 07, 2023)_   NOTARY PUBLIC _(signature)_ Natasha Beganovic

Purchasing Affidavit (Revised 01/19/2018)

J U V A R E

Certification Page

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.

Ann Marie Brown
_____
(Name , Title)

Ann Marie Brown – Client Success Manager
_____
(Printed Name and Title)

235 Peachtree Street NE, Suite 2300 Atlanta GA, 30303
_____
(Address)

336 689 5060   - annmarie.brown@juvare.com
_____
(Phone Number)/ Email

_____

CERTIFICATION AND SIGNATURE: By signing below, or resubmitting 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 is 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.

Collaborative Fusion
_____
(Company)

Nick Meeks
DocuSigned by:
D4DD6026E50C4C6...
_____
(Authorized Signature) (Representative Name, Title)

Nick Meeks – Senior Vice President and Chief Financial Officer
_____
(Printed Name and Title of Authorized Representative)

July 31, 2020
_____
(Date)

470.279.6457   Fax – 470.279.6025
_____