



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.

Header 6

List View

General Information

Contact

Default Values

Discount

Document Information

Procurement Folder: 461061

SO Doc Code: CRFQ

Procurement Type: Central Purchase Order

SO Dept: 1400

Vendor ID: 000000219122



SO Doc ID: AGR1800000005

Legal Name: POMEROY COMPUTER RESOURCES SALES CO INC

Published Date: 6/14/18

Alias/DBA:

Close Date: 6/28/18

Total Bid: \$130,599.00

Close Time: 13:30

Response Date: 06/28/2018



Status: Closed

Apply Default Values to Commodity Lines

View Procurement Folder



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

State of West Virginia
 Solicitation Response

Proc Folder : 461061
 Solicitation Description : Unity 350F SAN
 Proc Type : Central Purchase Order

Date issued	Solicitation Closes	Solicitation Response	Version
	2018-06-28 13:30:00	SR 1400 ESR06281800000006099	1

VENDOR
000000219122 POMEROY COMPUTER RESOURCES SALES CO INC

Solicitation Number: CRFQ 1400 AGR1800000005

Total Bid : \$130,599.00 Response Date: 2018-06-28 Response Time: 12:13:42

Comments:

FOR INFORMATION CONTACT THE BUYER
 Guy Nisbet
 (304) 558-2596
 guy.l.nisbet@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	Unity 350F SAN	1.00000	EA	\$130,599.000000	\$130,599.00

Comm Code	Manufacturer	Specification	Model #
43211501			

Extended Description : If Vendor is submitting an Alternate "or Equal" product, this information must be identified per Specification Item 4.2 at the time of submitting bid response.

Implementation for Avamar Virtual Edition

Model Number: PS-BAS-AVE

Direct Sale from EMC to Customer: This document and the performance of the Services detailed herein are subject to (i) the most recently signed agreement between Customer and EMC that contains terms and conditions designated to apply to professional services ("Existing Agreement"); or (ii) in the absence thereof, EMC's standard terms and conditions for professional services specified below. In the event of a conflict between this document and your Existing Agreement, this document shall govern.

Sale by EMC Authorized Reseller to Customer: If you have purchased the Services detailed herein through an EMC authorized reseller, this document is for descriptive and informational purposes only and does not establish a contractual relationship or any rights or obligations between you and EMC. Such Services are governed solely by the agreement between you and your EMC authorized reseller. EMC has permitted your EMC authorized reseller to provide this document to you. Your EMC authorized reseller may make arrangements with EMC to perform all or a portion of the Services on behalf of the reseller.

Sale from EMC to EMC Authorized Reseller: This document and the performance of the Services detailed herein are subject to the professional services terms and conditions between you ("Partner") and EMC that are specified in (i) the signed product and services ordering agreement, if any; or (ii) the applicable signed stand-alone professional services agreement ("PSA") if any, and in case both exist, the document having the later effective date shall govern; or (iii) in the absence of the previously described agreements, EMC's standard terms and conditions for professional services specified below. Partner acknowledges and agrees that: (a) its agreements with its customers ("End-Users") for the Services detailed herein are not contracts of EMC; (b) Partner has no right or power to bind EMC to any commitments unless otherwise explicitly agreed upon in writing by EMC and shall not represent otherwise or purport to do so; (c) End Users are not third-party beneficiaries of this document or any other agreement between EMC and Partner; (d) all references to "Customer" in this document shall mean the Partner who is purchasing the Services; and (e) where the provision of the Services by EMC is contingent on a Partner obligation, then that obligation may also apply to its End-User with respect to the provision of Services to such End-User. Partner shall ensure that such End-User complies with such obligations where applicable. In the event the End-User fails to meet such an obligation, then EMC shall not be liable for any resulting failure to perform its obligations. In the event of a conflict between this document and the agreements referenced in (i) and (ii) above, this document shall govern.

Service Description

This service offering installs EMC Avamar software on an existing VMware virtual machine (VM). This service offering is implemented as a stand-alone data deduplication solution or as a complementary technology to the existing backup infrastructure. Implementation services include the planning, design, and installation for Avamar Virtual Edition (AVE) software in a pre-qualified VMware server environment provided by the customer and addresses the processes, procedures, and tasks for a complete and comprehensive implementation.

Important! Running the Performance Assurance Tool (PAT) is optional, but it is recommended that the pre-sales benchmark testing must be completed on the customer's targeted ESX Server to ensure that it meets the acceptable minimum performance benchmark results.

Project Scope

EMC personnel or authorized agents ("EMC Personnel") shall work closely with Customer's staff to perform the services specified below ("Services"), subject to the Customer satisfying the "Customer Responsibilities" detailed in this document.

This service includes the following components (not to exceed the listed values):

- Avamar Servers: 1
- Avamar Clients: 5
- Avamar Plugins: 2

During this part of the service, EMC:

- Develops and documents the Avamar solution design and requirements.
- Completes solution design validation.
- Installs and Configures Avamar Download Server software for Avamar support.
- Deploy Avamar Virtual Edition Servers within customer VMware environment.
- Installs and configures Avamar Software and activates the Avamar Grid.
- Configures Avamar Enterprise Authentication.
- Installs and Configures Avamar Application and Database Client Plug-ins.
- Completes the tests in the *Test Plan* and delivers the *Test Plan* to Customer.
- Completes solution implementation validation.
- Completes and delivers the *Configuration Guide*.
- Completes and delivers the *Test Plan*.
- Conducts a basic Functional Overview.

The following activities focus on managing the initiation, planning, execution, and closure of the project including coordinating delivery resources and communicating with stakeholders:

- Manages EMC resources assigned to the project.
- Works with the Customer assigned single point of contact to coordinate project tasks and the resources assigned to complete said tasks.
- Acts as the single point of contact for all project communication and escalations.
- Coordinates project closeout, review, and sign-off.

Deliverables

EMC will provide Customer with the following Deliverables in connection with the Services:

- *Test Plan*
- *As-Built Configuration document*
- *Project Completion Form*

EMC Staffing

EMC will provide appropriate EMC Personnel to perform the Services specified in the "Project Scope" section above.

Customer Responsibilities

Customer's timely provision to EMC of office accommodations, facilities, equipment, assistance, cooperation, complete and accurate information and data from Customer officers, agents, and employees, suitably configured computer products, and network access is essential to the performance of the Services set forth in this document. Customer is responsible for ensuring that all Customer data has been backed-up prior to commencement of the Services. EMC assumes no responsibility or liability for any loss of, loss of access to, or unrecoverable data in connection with the Services.

The following are the additional responsibilities of Customer:

- Make appropriate system maintenance windows available for EMC (or authorized agents) as needed to prepare equipment.
- Provide technical support for implementation teams, all vendors, and third parties as necessary.
- Assume responsibility for all network connectivity, performance, and configuration issues.
- Provide at least one technical contact with system administration responsibilities and appropriate system/information access privileges.
- Ensure that all environment, technical and operational requirements are met prior to commencement of the Services.
- Provide EMC onsite/offsite personnel and authorized agents with access to the Customer's systems and networks (including, without limitation, remote systems and remote network access) as necessary to perform the Services during EMC's normal business hours, or at mutually agreed times.
- Ensure that all Customer data has been backed-up prior to commencement of the Services. EMC assumes no responsibility or liability for any loss of, loss of access to, or unrecoverable data in connection with the Services.
- Verify that the equipment location is prepared prior to the commencement of the Services.

Service Schedule

Unless otherwise mutually agreed in writing, the anticipated start date of the Services is within two (2) weeks after receipt and approval by EMC of the Customer's purchase order for this Service.

Customer shall have twelve (12) months from the date of EMC's invoice to use the Services described herein ("**Service Period**"). The Services shall automatically expire on the last day of the Service Period, unless otherwise agreed by EMC. Under no circumstances shall Customer be entitled to a credit or refund of any unused portion of the Services.

Services Scope Changes

Any changes to the Services, the schedule, charges or this document must be mutually agreed upon by EMC and the Customer in writing. Depending on the scope of such changes, EMC may require that a separate Statement of Work detailing the changes, the impact of the proposed changes on the charges and schedule, and other relevant terms, be executed by the parties.

Services Scope Exclusions

EMC is responsible for performing only the Services expressly specified in this document. All other services, tasks, and activities are considered out of scope.

Customer will maintain a current version of an anti-virus application continuously running on any system to which EMC is given access and will scan all Deliverables and the media on which they are delivered. Customer shall take reasonable data back-up measures and, in particular, shall provide for a daily back-up process and back-up the relevant data before EMC performs any remedial, upgrade, or other works on Customer's production systems. To the extent EMC's liability for loss of data is not

anyway excluded under the Existing Agreement or this document, EMC shall, in case of data losses, only be liable for the typical effort to recover the data which would have accrued if Customer had appropriately backed up its data.

Fixed Bid Service Fee and Invoicing Schedule

The Services described in this document are delivered on consecutive days during EMC's normal business hours (8:00 A.M.–6:00 P.M. local time, M–F, excluding EMC and local holidays). However, some Services may require scheduling by EMC for delivery outside of normal business hours due to the nature of the Services being performed (e.g. on-site hardware deployment).

The Services described in this document are performed on a fixed price basis at the fees specified in the applicable EMC quote.

The Services will be delivered using EMC's standard delivery model, which may include onsite and/or offsite delivery of the Services. If the Customer requires a different delivery model, the charges, expenses, scope of work and/or schedule are subject to modification in accordance with the "Services Scope Changes" section in this document. If the Customer does not authorize such change(s) in accordance with the "Services Scope Changes" section, EMC and the Customer agree that EMC's standard delivery model will apply for the Services. (Not applicable to U.S. Government or U.S. State engagements that preclude the use of offsite delivery of services.)

Invoices are issued upon EMC's receipt and approval of the Customer's purchase order.

Customer authorizes EMC to invoice for and shall pay additional amounts related to changes or exceptions to the Services.

PROFESSIONAL SERVICES TERMS AND CONDITIONS

The following terms and conditions govern this document:

1.1 Term; Termination. This document begins on the date specified in the "Service Schedule" section above, and, unless terminated for breach, continues in accordance with its terms. A party shall notify the other in writing in case of the other's alleged breach of a material provision of this document. The recipient shall have thirty (30) calendar days from the date of receipt of such notice to effect a cure ("**Cure Period**"). If the recipient of such notice fails to effect a cure within the Cure Period, then the sender of the notice shall have the option of sending a written notice of termination, which shall take effect upon receipt.

1.2 Grant of Copyright or License Rights in Deliverables. Subject to Customer's payment of all amounts due EMC, the parties agree (i) Customer shall own all copyright rights to the portion of Deliverables (defined below) that consists solely of written reports, analyses and other working papers prepared and delivered by EMC to Customer in the performance of EMC's obligations hereunder, and (ii) for the portion of Deliverables that consists of scripts and code, EMC grants Customer a non-exclusive, non-transferable, irrevocable (except in case of breach of this document) perpetual right to use, copy and create derivative works from such (without the right to sublicense) for Customer's internal business operations, as contemplated hereunder. The license granted in this section does not apply to (a) Customer furnished materials, and (b) any other EMC products or items licensed, or otherwise provided, under a separate agreement. "**Deliverables**" means any reports, analyses, scripts, code or other work results which have been delivered by EMC to Customer within the framework of fulfilling obligations under this document.

1.2.1 Customer Furnished Materials. Customer does not relinquish any of its rights in materials it furnishes to EMC for use in performing the Services. Pursuant to Customer's Proprietary Rights (defined below) therein, Customer grants EMC a non-exclusive, non-transferable right to use such solely for the benefit of Customer in fulfillment of EMC's obligations hereunder.

1.2.2 Reservation of Proprietary Rights. Each party reserves for itself all Proprietary Rights that it has not expressly granted to the other. EMC shall not be limited in developing, using or marketing services or products which are similar to the Deliverables or Services provided hereunder, or, subject to EMC's confidentiality obligations to Customer, in using the Deliverables or performing similar Services for any other projects. "**Proprietary Rights**" mean all patents, copyrights, trade secrets, methodologies, ideas, concepts, inventions, know-how, techniques or other intellectual property rights of a party.

1.3 Confidential Information; Publicity. "**Confidential Information**" means any information that is marked "confidential", "proprietary" or the like or in relation to which its confidentiality should by its nature be inferred or, if disclosed orally, are identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, is summarized, appropriately labeled and provided in tangible form. Confidential Information does not include information that is (i) rightfully in the receiving party's possession without prior obligation of confidentiality from the disclosing party; (ii) a matter of public knowledge; (iii) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (iv) independently developed by the receiving party without reference to the disclosing party's Confidential Information. Each party shall (a) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations hereunder; and (b) protect from disclosure to any third parties, by use of a standard of care equivalent to that as used by recipient to protect its own information of a similar nature and importance, and, no less than the use of reasonable care, any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to (1) Customer data to which EMC may have access in connection with the provision of Services, which shall remain Confidential Information until one of the exceptions stated above applies; and (2) Confidential Information that constitutes, contains or reveals, in whole or in part, EMC proprietary rights, which shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (A) to its Affiliate (defined below) for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliate complies with the foregoing; and (B) to the extent required by law (provided the receiving party has given the disclosing party prompt notice). "**Affiliate**" means a legal entity that is controlled by, controls, or is under common "control" with EMC or Customer, respectively. "**Control**" means more than 50% of the voting power or ownership interests. Each party shall not, and shall not authorize or assist another to, originate, produce, issue or release any written publicity, news release, marketing collateral or other publication or public announcement, relating in any way to this document, without the prior written approval of the other, which approval shall not be unreasonably withheld.

1.4 Payment. Customer shall pay EMC's invoices in full and in the same currency as the EMC invoice within thirty (30) days after the date of EMC's invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate. The charges due hereunder are exclusive of and Customer shall pay or reimburse EMC for all value added (VAT), sales, use, excise, withholding, personal property, goods and services and other taxes, levies, customs and duties resulting from Customer's purchase order, except for taxes based on EMC's net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to EMC at tax@emc.com.

1.5 Warranty; Warranty Disclaimer. EMC shall perform the Services in a workmanlike manner in accordance with generally accepted industry standards. Customer must notify EMC of any failure to so perform within ten (10) days after the performance of the applicable portion of Services. EMC's entire liability and Customer's sole remedy for EMC's failure to so perform shall be for EMC to, at its option, (i) correct such failure, and/or (ii) terminate this document and refund that portion of any fees received that correspond to such failure to perform. **EXCEPT AS EXPRESSLY STATED IN THIS WARRANTY SECTION, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EMC (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, AND DISCLAIMS ALL IMPLIED WARRANTIES. INSO FAR AS PERMITTED UNDER APPLICABLE LAW, ALL OTHER WARRANTIES ARE**

SPECIFICALLY EXCLUDED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.

1.6 LIMITATIONS OF LIABILITY. EMC'S TOTAL LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH THIS DOCUMENT OR SERVICES PROVIDED HEREUNDER, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY EMC'S SOLE NEGLIGENCE IN AN AMOUNT NOT TO EXCEED THE PRICE PAID TO EMC FOR THE SERVICES RENDERED HEREUNDER. EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF EMC'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL HAVE LIABILITY TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

1.7 Miscellaneous. The parties shall act as independent contractors for all purposes hereunder. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other, or both parties as joint venturers or partners for any purpose. Neither party shall be responsible for the acts or omissions of the other, and neither party will have authority to speak for, represent or obligate the other party in any way without the prior written approval of the other party. Each party shall comply with all applicable export laws, orders and regulations and obtain all necessary governmental permits, licenses and clearances. Diversion contrary to US law, including US export laws is expressly prohibited. This document shall be governed by the laws of the Commonwealth of Massachusetts for transactions taking place in the United States and the country in which the EMC entity is located for transactions taking place outside of the United States, excluding any conflict of law rules. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

Copyright © 2017 Dell Inc. or its subsidiaries. All rights reserved. Dell, EMC, Dell EMC and other trademarks are trademarks of Dell Inc. or its subsidiaries. Other trademarks may be trademarks of their respective owners.

Configuration for Data Domain Virtual Edition

Model Number: PS-BAS-DDVE

Direct Sale from EMC to Customer: This document and the performance of the Services detailed herein are subject to (i) the most recently signed agreement between Customer and EMC that contains terms and conditions designated to apply to professional services ("Existing Agreement"); or (ii) in the absence thereof, EMC's standard terms and conditions for professional services specified below. In the event of a conflict between this document and your Existing Agreement, this document shall govern.

Sale by EMC Authorized Reseller to Customer: If you have purchased the Services detailed herein through an EMC authorized reseller, this document is for descriptive and informational purposes only and does not establish a contractual relationship or any rights or obligations between you and EMC. Such Services are governed solely by the agreement between you and your EMC authorized reseller. EMC has permitted your EMC authorized reseller to provide this document to you. Your EMC authorized reseller may make arrangements with EMC to perform all or a portion of the Services on behalf of the reseller.

Sale from EMC to EMC Authorized Reseller: This document and the performance of the Services detailed herein are subject to the professional services terms and conditions between you ("Partner") and EMC that are specified in (i) the signed product and services ordering agreement, if any; or (ii) the applicable signed stand-alone professional services agreement ("PSA") if any, and in case both exist, the document having the later effective date shall govern; or (iii) in the absence of the previously described agreements, EMC's standard terms and conditions for professional services specified below. Partner acknowledges and agrees that: (a) its agreements with its customers ("End-Users") for the Services detailed herein are not contracts of EMC; (b) Partner has no right or power to bind EMC to any commitments unless otherwise explicitly agreed upon in writing by EMC and shall not represent otherwise or purport to do so; (c) End Users are not third-party beneficiaries of this document or any other agreement between EMC and Partner; (d) all references to "Customer" in this document shall mean the Partner who is purchasing the Services; and (e) where the provision of the Services by EMC is contingent on a Partner obligation, then that obligation may also apply to its End-User with respect to the provision of Services to such End-User. Partner shall ensure that such End-User complies with such obligations where applicable. In the event the End-User fails to meet such an obligation, then EMC shall not be liable for any resulting failure to perform its obligations. In the event of a conflict between this document and the agreements referenced in (i) and (ii) above, this document shall govern.

Service Description

This service provides for the plan, design, and implementation of one Data Domain Virtual Edition (DDVE) software virtual appliance. The service includes the basic Data Domain Operating System (DDOS) configuration of the customer-installed DDVE virtual machine software, which provides for the integration of the Data Domain virtual appliance into the customer's backup environment.

This service provides for the DDVE software configuration and DDOS file configuration of a previously successfully installed DDVE virtual machine.

Note: If the customer prefers EMC to perform the initial installation of the DDVE virtual machine software into the customer's VMware vSphere environment, the *Implementation Specialist - Up to 4 Hours* (PS-BAS-ISBRS) service must be delivered for each request.

Project Scope

EMC personnel or authorized agents ("EMC Personnel") shall work closely with Customer's staff to perform the services specified below ("Services"), subject to the Customer satisfying the "Customer Responsibilities" detailed in this document.

This service includes the following components (not to exceed the listed values):

- Data Domain Virtual Edition Appliance: 1

During this part of the service, EMC:

- Meets with Customer to ensure that the environment and operational implementation requirements (hardware, software, and infrastructure) are met by Customer, and provides Customer with a list of required or beneficial updates.
- Plans and estimates a schedule for the conversion configuration tasks for the services.
- Performs the services as defined in this document.
- Provides the customer with the applicable documentation.
- Verifies that the environment meets all hardware and software requirements.
- Documents the proposed architecture in the *Configuration Guide*.
- Develops the *Test Plan*.
- Conducts an implementation review meeting.
- Validates that the equipment is on site at the appropriate location with power and cable requirements met.
- Performs the following Data Domain Virtual Edition (DDVE) configuration:
 - Verifies VMware and DDVE software requirements.
 - Reviews vCenter or ESXi Server Configuration Settings.
 - Verifies successful customer-installed DDVE virtual machine.
 - Reviews DDVE configuration settings.
 - Adds additional VMware virtual disks to the virtual machine configuration settings.
- Expands new storage into the Data Domain virtual appliance file system
- Performs an initial Data Domain system configuration:
 - Verifies and configures LAN connectivity.
 - Configures Data Domain purchased software license, if necessary.
 - Configures system administration for auto support and alerts.
 - Configures Mtrees, and Quotas, if necessary
- Configures data movement policies on all applicable Mtrees on Data Domain systems, if necessary.
- Demonstrates additional capacity is recognized by the Data Domain storage system.
- Configures CIFS/NFS data access.
- Assists the customer with CIFS/NAS integration into backup-application software.
- Configures replication on Data Domain Appliance.
- Verifies that Data Domain auto support and alerts are sending and submitting Customer Support ID information.

- Performs the tests in the *Test Plan* for Customer.
- Completes and delivers the *Configuration Guide*.
- Completes and delivers the *Test Plan*.
- Conducts a basic Functional Overview.

The following activities focus on managing the initiation, planning, execution, and closure of the project including coordinating delivery resources and communicating with stakeholders:

- Manages EMC resources assigned to the project.
- Works with the Customer assigned single point of contact to coordinate project tasks and the resources assigned to complete said tasks.
- Acts as the single point of contact for all project communication and escalations.
- Determines the engagement process and schedule.
- Develops a high-level *Project Plan* with critical path events and milestones.
- Conducts a kickoff meeting to review the project scope, expectations, communication plans, and availability of required resources.
- Conducts periodic status meetings to review project process, issues, and potential risks. The frequency of the meetings will be mutually agreed upon by the Customer and EMC.
- Coordinates project closeout, review, and sign-off.

Deliverables

EMC will provide Customer with the following Deliverables in connection with the Services:

- *Configuration Guide*
- *Pre-engagement Questionnaire*
- *Test Plan*
- *Project Completion Form*

EMC Staffing

EMC will provide appropriate EMC Personnel to perform the Services specified in the “Project Scope” section above.

Customer Responsibilities

Customer’s timely provision to EMC of office accommodations, facilities, equipment, assistance, cooperation, complete and accurate information and data from Customer officers, agents, and employees, suitably configured computer products, and network access is essential to the performance of the Services set forth in this document. Customer is responsible for ensuring that all Customer data has been backed-up prior to commencement of the Services. EMC assumes no responsibility or liability for any loss of, loss of access to, or unrecoverable data in connection with the Services.

The following are the additional responsibilities of Customer:

- Make appropriate system maintenance windows available for EMC (or authorized agents) as needed to prepare equipment.
- Provide technical support for implementation teams, all vendors, and third parties as necessary.
- Assume responsibility for all network connectivity, performance, and configuration issues.

- Provide EMC personnel with access to Customer's subject matter experts, systems, and networks (including, without limitation, remote systems/network access) necessary to perform the services during EMC's normal business hours (or other mutually agreed upon times).
- Provide at least one technical contact with system administration responsibilities and appropriate system and information access privileges to perform this service.
- Make appropriate system maintenance window(s) available for Service Personnel as needed to prepare equipment.
- Ensure that all environment, technical, and operational requirements are met prior to commencement of the service.
- Provide support from technical support teams for all vendors and third parties, as necessary.
- Ensure that all customer's data has been backed up prior to commencement of the services. EMC assumes no responsibility or liability for any loss of, loss of access to, or unrecoverable data in connection with the services.
- Provide appropriate personnel to assist with the racking and stacking of equipment.
- Provide at least one technical contact with system administration responsibilities and appropriate system/information access privileges.
- Ensure that all environment, technical, and operational requirements are met prior to commencement of the services.
- Provide EMC Personnel with access to the customers subject matter experts, systems and networks (including, without limitation, remote systems/ network access) necessary to perform the services during EMC's normal business hours (or other mutually agreed upon times).
- For Cloud tier configuration to be successful, the customer must supply to the EMC technician all uncorrupted certificates required for DDR connectivity to the customer's internal or external Cloud provider.

Service Schedule

Unless otherwise mutually agreed in writing, the anticipated start date of the Services is within two (2) weeks after receipt and approval by EMC of the Customer's purchase order for this Service.

Customer shall have twelve (12) months from the date of EMC's invoice to use the Services described herein ("**Service Period**"). The Services shall automatically expire on the last day of the Service Period, unless otherwise agreed by EMC. Under no circumstances shall Customer be entitled to a credit or refund of any unused portion of the Services.

Services Scope Changes

Any changes to the Services, the schedule, charges or this document must be mutually agreed upon by EMC and the Customer in writing. Depending on the scope of such changes, EMC may require that a separate Statement of Work detailing the changes, the impact of the proposed changes on the charges and schedule, and other relevant terms, be executed by the parties.

Services Scope Exclusions

EMC is responsible for performing only the Services expressly specified in this document. All other services, tasks, and activities are considered out of scope.

Customer will maintain a current version of an anti-virus application continuously running on any system to which EMC is given access and will scan all Deliverables and the media on which they are delivered. Customer shall take reasonable data back-up measures and, in particular, shall provide for a daily back-up process and back-up the relevant data before EMC performs any remedial, upgrade, or

other works on Customer's production systems. To the extent EMC's liability for loss of data is not anyway excluded under the Existing Agreement or this document, EMC shall, in case of data losses, only be liable for the typical effort to recover the data which would have accrued if Customer had appropriately backed up its data.

Fixed Bid Service Fee and Invoicing Schedule

The Services described in this document are delivered on consecutive days during EMC's normal business hours (8:00 A.M.–6:00 P.M. local time, M–F, excluding EMC and local holidays). However, some Services may require scheduling by EMC for delivery outside of normal business hours due to the nature of the Services being performed (e.g. on-site hardware deployment).

The Services described in this document are performed on a fixed price basis at the fees specified in the applicable EMC quote.

The Services will be delivered using EMC's standard delivery model, which may include onsite and/or offsite delivery of the Services. If the Customer requires a different delivery model, the charges, expenses, scope of work and/or schedule are subject to modification in accordance with the "Services Scope Changes" section in this document. If the Customer does not authorize such change(s) in accordance with the "Services Scope Changes" section, EMC and the Customer agree that EMC's standard delivery model will apply for the Services. (Not applicable to U.S. Government or U.S. State engagements that preclude the use of offsite delivery of services.)

Invoices are issued upon EMC's receipt and approval of the Customer's purchase order.

Customer authorizes EMC to invoice for and shall pay additional amounts related to changes or exceptions to the Services.

PROFESSIONAL SERVICES TERMS AND CONDITIONS

The following terms and conditions govern this document:

1.1 Term; Termination. This document begins on the date specified in the "Service Schedule" section above, and, unless terminated for breach, continues in accordance with its terms. A party shall notify the other in writing in case of the other's alleged breach of a material provision of this document. The recipient shall have thirty (30) calendar days from the date of receipt of such notice to effect a cure ("**Cure Period**"). If the recipient of such notice fails to effect a cure within the Cure Period, then the sender of the notice shall have the option of sending a written notice of termination, which shall take effect upon receipt.

1.2 Grant of Copyright or License Rights in Deliverables. Subject to Customer's payment of all amounts due EMC, the parties agree (i) Customer shall own all copyright rights to the portion of Deliverables (defined below) that consists solely of written reports, analyses and other working papers prepared and delivered by EMC to Customer in the performance of EMC's obligations hereunder, and (ii) for the portion of Deliverables that consists of scripts and code, EMC grants Customer a non-exclusive, non-transferable, irrevocable (except in case of breach of this document) perpetual right to use, copy and create derivative works from such (without the right to sublicense) for Customer's internal business operations, as contemplated hereunder. The license granted in this section does not apply to (a) Customer furnished materials, and (b) any other EMC products or items licensed, or otherwise provided, under a separate agreement. "**Deliverables**" means any reports, analyses, scripts, code or other work results which have been delivered by EMC to Customer within the framework of fulfilling obligations under this document.

1.2.1 Customer Furnished Materials. Customer does not relinquish any of its rights in materials it furnishes to EMC for use in performing the Services. Pursuant to Customer's Proprietary Rights (defined below) therein, Customer grants EMC a non-exclusive, non-transferable right to use such solely for the benefit of Customer in fulfillment of EMC's obligations hereunder.

1.2.2 Reservation of Proprietary Rights. Each party reserves for itself all Proprietary Rights that it has not expressly granted to the other. EMC shall not be limited in developing, using or marketing services or products which are similar to the Deliverables or Services provided hereunder, or, subject to EMC's confidentiality obligations to Customer, in using the Deliverables or performing similar Services for any other projects. "**Proprietary Rights**" mean all patents, copyrights, trade secrets, methodologies, ideas, concepts, inventions, know-how, techniques or other intellectual property rights of a party.

1.3 Confidential Information; Publicity. "**Confidential Information**" means any information that is marked "confidential", "proprietary" or the like or in relation to which its confidentiality should by its nature be inferred or, if disclosed orally, are identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, is summarized, appropriately labeled and provided in tangible form. Confidential Information does not include information that is (i) rightfully in the receiving party's possession without prior obligation of confidentiality from the disclosing party; (ii) a matter of public knowledge; (iii) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (iv) independently developed by the receiving party without reference to the disclosing party's Confidential Information. Each party shall (a) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations hereunder; and (b) protect from disclosure to any third parties, by use of a standard of care equivalent to that as used by recipient to protect its own information of a similar nature and importance, and, no less than the use of reasonable care, any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to (1) Customer data to which EMC may have access in connection with the provision of Services, which shall remain Confidential Information until one of the exceptions stated above applies; and (2) Confidential Information that constitutes, contains or reveals, in whole or in part, EMC proprietary rights, which shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (A) to its Affiliate (defined below) for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliate complies with the foregoing; and (B) to the extent required by law (provided the receiving party has given the disclosing party prompt notice). "**Affiliate**" means a legal entity that is controlled by, controls, or is under common "control" with EMC or Customer, respectively. "**Control**" means more than 50% of the voting power or ownership interests. Each party shall not, and shall not authorize or assist another to, originate, produce, issue or release any written publicity, news release, marketing collateral or other publication or public announcement, relating in any way to this document, without the prior written approval of the other, which approval shall not be unreasonably withheld.

1.4 Payment. Customer shall pay EMC's invoices in full and in the same currency as the EMC invoice within thirty (30) days after the date of EMC's invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate. The charges due hereunder are exclusive of and Customer shall pay or reimburse EMC for all value added (VAT), sales, use, excise, withholding, personal property, goods and services and other taxes, levies, customs and duties resulting from Customer's purchase order, except for taxes based on EMC's net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to EMC at tax@emc.com.

1.5 Warranty; Warranty Disclaimer. EMC shall perform the Services in a workmanlike manner in accordance with generally accepted industry standards. Customer must notify EMC of any failure to so perform within ten (10) days after the performance of the applicable portion of Services. EMC's entire liability and Customer's sole remedy for EMC's failure to so perform shall be for EMC to, at its option, (i) correct such failure, and/or (ii) terminate this document and refund that portion of any fees received that correspond to such failure to perform. **EXCEPT AS EXPRESSLY STATED IN THIS WARRANTY SECTION, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EMC (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, AND DISCLAIMS ALL IMPLIED WARRANTIES. INsofar as permitted under applicable law, all other warranties are**

SPECIFICALLY EXCLUDED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.

1.6 LIMITATIONS OF LIABILITY. EMC'S TOTAL LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH THIS DOCUMENT OR SERVICES PROVIDED HEREUNDER, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY EMC'S SOLE NEGLIGENCE IN AN AMOUNT NOT TO EXCEED THE PRICE PAID TO EMC FOR THE SERVICES RENDERED HEREUNDER. EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF EMC'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL HAVE LIABILITY TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

1.7 Miscellaneous. The parties shall act as independent contractors for all purposes hereunder. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other, or both parties as joint venturers or partners for any purpose. Neither party shall be responsible for the acts or omissions of the other, and neither party will have authority to speak for, represent or obligate the other party in any way without the prior written approval of the other party. Each party shall comply with all applicable export laws, orders and regulations and obtain all necessary governmental permits, licenses and clearances. Diversion contrary to US law, including US export laws is expressly prohibited. This document shall be governed by the laws of the Commonwealth of Massachusetts for transactions taking place in the United States and the country in which the EMC entity is located for transactions taking place outside of the United States, excluding any conflict of law rules. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

Copyright © 2017 EMC Corporation. All rights reserved.

For the most up-to-date listing of EMC trademarks, see the list posted on EMC's website currently located at:

<http://www.emc.com/legal/emc-corporation-trademarks.htm>

All other trademarks used herein are the property of their respective owners.

Zero Dollar Installation for ESRS

Model Number: PSINST-ESRS

Direct Sale from EMC to Customer: This document and the performance of the Services detailed herein are subject to (i) the most recently signed agreement between Customer and EMC that contains terms and conditions designated to apply to professional services ("Existing Agreement"); or (ii) in the absence thereof, EMC's standard terms and conditions for professional services specified below. In the event of a conflict between this document and your Existing Agreement, this document shall govern.

Sale by EMC Authorized Reseller to Customer: If you have purchased the Services detailed herein through an EMC authorized reseller, this document is for descriptive and informational purposes only and does not establish a contractual relationship or any rights or obligations between you and EMC. Such Services are governed solely by the agreement between you and your EMC authorized reseller. EMC has permitted your EMC authorized reseller to provide this document to you. Your EMC authorized reseller may make arrangements with EMC to perform all or a portion of the Services on behalf of the reseller.

Sale from EMC to EMC Authorized Reseller: This document and the performance of the Services detailed herein are subject to the professional services terms and conditions between you ("Partner") and EMC that are specified in (i) the signed product and services ordering agreement, if any; or (ii) the applicable signed stand-alone professional services agreement ("PSA") if any, and in case both exist, the document having the later effective date shall govern; or (iii) in the absence of the previously described agreements, EMC's standard terms and conditions for professional services specified below. Partner acknowledges and agrees that: (a) its agreements with its customers ("End-Users") for the Services detailed herein are not contracts of EMC; (b) Partner has no right or power to bind EMC to any commitments unless otherwise explicitly agreed upon in writing by EMC and shall not represent otherwise or purport to do so; (c) End Users are not third-party beneficiaries of this document or any other agreement between EMC and Partner; (d) all references to "Customer" in this document shall mean the Partner who is purchasing the Services; and (e) where the provision of the Services by EMC is contingent on a Partner obligation, then that obligation may also apply to its End-User with respect to the provision of Services to such End-User. Partner shall ensure that such End-User complies with such obligations where applicable. In the event the End-User fails to meet such an obligation, then EMC shall not be liable for any resulting failure to perform its obligations. In the event of a conflict between this document and the agreements referenced in (i) and (ii) above, this document shall govern.

Service Description

This service implements up to two ESRS "Virtual Edition" appliances (version 3.x or higher) in the Customer's environment. ESRS establishes a two-way remote connection between the Customer's EMC environment and EMC Customer Service that enables proactive remote monitoring, diagnosis, and repair. The ESRS connection transmits encrypted alerts and configuration files from Customer products to EMC using efficient bi-directional Managed File Transfer (MFT) technology. If there is an issue or potential issue that requires attention, EMC Customer Service can connect back in to troubleshoot or repair.

Additionally, ESRS Policy Manager software may also be installed with this service.

Project Scope

EMC personnel or authorized agents ("EMC Personnel") shall work closely with Customer's staff to perform the services specified below ("Services"), subject to the Customer satisfying the "Customer Responsibilities" detailed in this document.

This service includes the following components (not to exceed the listed values):

- Number of ESRS appliances: 2

During this part of the service, EMC:

- Gathers required customer environment information and plans ESRS installation.
- Gathers ESRS VE gateway details and firewall port requirements for Managed File Transfer (MFT) installation.
- Plans the ESRS V2 to ESRS V3 migration.
- Executes the latest Customer Environment Check Tool (CECT) to ensure that the customer's planned environment meets the Client specifications.
- Conducts an implementation review meeting.
- Validates that the equipment is on site at the appropriate location with power and cable requirements met.
- Installs and validates ESRS software.
- Provisions the ESRS virtual appliance(s), which may be a 'High Availability' ESRS cluster.
- Installs the ESRS Policy Manager software.
- Deploys the customer's currently installed EMC devices.
- Activates and registers MFT with appropriate tool/software of the storage system.
- Validates the MFT registration by generating some log files and sending with MFT.
- Completes post-install reconfiguration of FTP, SMTP, and other applicable tools to ensure proper ESRS operation.
- Uses the Migration Tool to document currently deployed ESRS V2 devices.
- Backs up the ESRS V2 Gateway EMC directory.
- Tests the ESRS provisioning and connectivity.

The following activities focus on managing the initiation, planning, execution, and closure of the project including coordinating delivery resources and communicating with stakeholders:

- Manages EMC resources assigned to the project.
- Works with the Customer assigned single point of contact to coordinate project tasks and the resources assigned to complete said tasks.
- Acts as the single point of contact for all project communication and escalations.
- Determines the engagement process and schedule.
- Develops a high-level Project Plan with critical path events and milestones.
- Conducts a kickoff meeting to review the project scope, expectations, communication plans, and availability of required resources.
- Conducts periodic status meetings to review project process, issues, and potential risks. The frequency of the meetings will be mutually agreed upon by the Customer and EMC.
- Coordinates project closeout, review, and sign-off.

Deliverables

EMC will provide Customer with the following Deliverables in connection with the Services:

- Project Completion Form

EMC Staffing

EMC will provide appropriate EMC Personnel to perform the Services specified in the “Project Scope” section above.

Customer Responsibilities

Customer’s timely provision to EMC of office accommodations, facilities, equipment, assistance, cooperation, complete and accurate information and data from Customer officers, agents, and employees, suitably configured computer products, and network access is essential to the performance of the Services set forth in this document. Customer is responsible for ensuring that all Customer data has been backed-up prior to commencement of the Services. EMC assumes no responsibility or liability for any loss of, loss of access to, or unrecoverable data in connection with the Services.

The following are the additional responsibilities of Customer:

- Provide EMC with reasonable access to Customer functional, technical, and business staff as necessary for EMC to perform the Services.
- Assign a lead technical resource to act as a single technical point-of-contact between Customer and EMC as necessary for the duration of the engagement.
- Ensure that all required site preparations have been successfully met for any new non-EMC system components. Customer will also ensure its facilities (or facilities provided through a third-party) are capable of accepting and supporting any new products ordered from EMC before the project start date. This includes, but is not limited to, adequate HVAC, power, floor space, security, etc.
- Make appropriate system maintenance windows available for EMC (or authorized agents) as needed to prepare equipment.
- Provide technical support for implementation teams, all vendors, and third parties as necessary.
- Assume responsibility for all network connectivity, performance, and configuration issues.
- Ensure that an adequate backup and restore process exists and is operational.
- Maintain the properly configured hardware/operating system platform to support the Services and prepare a properly configured server prior to the commencement of Services.
- Provide a virtual server infrastructure that meets the requirements for implementing EMC Secure Remote services.
- Accept and implement EMC’s most current version of ESRS code including but not limited to operating system updates and upgrades on the ESRS virtual appliance.

Service Schedule

Unless otherwise mutually agreed in writing, the anticipated start date of the Services is within two (2) weeks after receipt and approval by EMC of the Customer’s purchase order for this Service.

Customer shall have twelve (12) months from the date of EMC’s invoice to use the Services described herein (“**Service Period**”). The Services shall automatically expire on the last day of the Service Period, unless otherwise agreed by EMC. Under no circumstances shall Customer be entitled to a credit or refund of any unused portion of the Services.

Services Scope Changes

Any changes to the Services, the schedule, charges or this document must be mutually agreed upon by EMC and the Customer in writing. Depending on the scope of such changes, EMC may require that a

separate Statement of Work detailing the changes, the impact of the proposed changes on the charges and schedule, and other relevant terms, be executed by the parties.

Services Scope Exclusions

EMC is responsible for performing only the Services expressly specified in this document. All other services, tasks, and activities are considered out of scope.

Customer will maintain a current version of an anti-virus application continuously running on any system to which EMC is given access and will scan all Deliverables and the media on which they are delivered. Customer shall take reasonable data back-up measures and, in particular, shall provide for a daily back-up process and back-up the relevant data before EMC performs any remedial, upgrade, or other works on Customer's production systems. To the extent EMC's liability for loss of data is not anyway excluded under the Existing Agreement or this document, EMC shall, in case of data losses, only be liable for the typical effort to recover the data which would have accrued if Customer had appropriately backed up its data.

Fixed Bid Service Fee and Invoicing Schedule

The Services described in this document are delivered on consecutive days during EMC's normal business hours (8:00 A.M.–6:00 P.M. local time, M–F, excluding EMC and local holidays). However, some Services may require scheduling by EMC for delivery outside of normal business hours due to the nature of the Services being performed (e.g. on-site hardware deployment).

The Services described in this document are performed on a fixed price basis at the fees specified in the applicable EMC quote.

The Services will be delivered using EMC's standard delivery model, which may include onsite and/or offsite delivery of the Services. If the Customer requires a different delivery model, the charges, expenses, scope of work and/or schedule are subject to modification in accordance with the "Services Scope Changes" section in this document. If the Customer does not authorize such change(s) in accordance with the "Services Scope Changes" section, EMC and the Customer agree that EMC's standard delivery model will apply for the Services. (Not applicable to U.S. Government or U.S. State engagements that preclude the use of offsite delivery of services.)

Invoices are issued upon EMC's receipt and approval of the Customer's purchase order.

Customer authorizes EMC to invoice for and shall pay additional amounts related to changes or exceptions to the Services.

PROFESSIONAL SERVICES TERMS AND CONDITIONS

The following terms and conditions govern this document:

1.1 Term; Termination. This document begins on the date specified in the "Service Schedule" section above, and, unless terminated for breach, continues in accordance with its terms. A party shall notify the other in writing in case of the other's alleged breach of a material provision of this document. The recipient shall have thirty (30) calendar days from the date of receipt of such notice to effect a cure ("**Cure Period**"). If the recipient of such notice fails to effect a cure within the Cure Period, then the sender of the notice shall have the option of sending a written notice of termination, which shall take effect upon receipt.

1.2 Grant of Copyright or License Rights in Deliverables. Subject to Customer's payment of all amounts due EMC, the parties agree (i) Customer shall own all copyright rights to the portion of Deliverables (defined below) that consists solely of written reports, analyses and other working papers prepared and delivered by EMC to Customer in the performance of EMC's obligations hereunder, and (ii) for the portion of Deliverables that consists of scripts and code, EMC grants Customer a non-exclusive, non-transferable, irrevocable (except in case of breach of this document) perpetual right to use, copy and create derivative works from such (without the right to sublicense) for Customer's internal business

operations, as contemplated hereunder. The license granted in this section does not apply to (a) Customer furnished materials, and (b) any other EMC products or items licensed, or otherwise provided, under a separate agreement. “**Deliverables**” means any reports, analyses, scripts, code or other work results which have been delivered by EMC to Customer within the framework of fulfilling obligations under this document.

1.2.1 Customer Furnished Materials. Customer does not relinquish any of its rights in materials it furnishes to EMC for use in performing the Services. Pursuant to Customer’s Proprietary Rights (defined below) therein, Customer grants EMC a non-exclusive, non-transferable right to use such solely for the benefit of Customer in fulfillment of EMC’s obligations hereunder.

1.2.2 Reservation of Proprietary Rights. Each party reserves for itself all Proprietary Rights that it has not expressly granted to the other. EMC shall not be limited in developing, using or marketing services or products which are similar to the Deliverables or Services provided hereunder, or, subject to EMC’s confidentiality obligations to Customer, in using the Deliverables or performing similar Services for any other projects. “**Proprietary Rights**” mean all patents, copyrights, trade secrets, methodologies, ideas, concepts, inventions, know-how, techniques or other intellectual property rights of a party.

1.3 Confidential Information; Publicity. “**Confidential Information**” means any information that is marked “confidential”, “proprietary” or the like or in relation to which its confidentiality should by its nature be inferred or, if disclosed orally, are identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, is summarized, appropriately labeled and provided in tangible form. Confidential Information does not include information that is (i) rightfully in the receiving party’s possession without prior obligation of confidentiality from the disclosing party; (ii) a matter of public knowledge; (iii) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (iv) independently developed by the receiving party without reference to the disclosing party’s Confidential Information. Each party shall (a) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations hereunder; and (b) protect from disclosure to any third parties, by use of a standard of care equivalent to that as used by recipient to protect its own information of a similar nature and importance, and, no less than the use of reasonable care, any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to (1) Customer data to which EMC may have access in connection with the provision of Services, which shall remain Confidential Information until one of the exceptions stated above applies; and (2) Confidential Information that constitutes, contains or reveals, in whole or in part, EMC proprietary rights, which shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (A) to its Affiliate (defined below) for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliate complies with the foregoing; and (B) to the extent required by law (provided the receiving party has given the disclosing party prompt notice). “**Affiliate**” means a legal entity that is controlled by, controls, or is under common “control” with EMC or Customer, respectively. “**Control**” means more than 50% of the voting power or ownership interests. Each party shall not, and shall not authorize or assist another to, originate, produce, issue or release any written publicity, news release, marketing collateral or other publication or public announcement, relating in any way to this document, without the prior written approval of the other, which approval shall not be unreasonably withheld.

1.4 Payment. Customer shall pay EMC’s invoices in full and in the same currency as the EMC invoice within thirty (30) days after the date of EMC’s invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate. The charges due hereunder are exclusive of and Customer shall pay or reimburse EMC for all value added (VAT), sales, use, excise, withholding, personal property, goods and services and other taxes, levies, customs and duties resulting from Customer’s purchase order, except for taxes based on EMC’s net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to EMC at tax@emc.com.

1.5 Warranty; Warranty Disclaimer. EMC shall perform the Services in a workmanlike manner in accordance with generally accepted industry standards. Customer must notify EMC of any failure to so perform within ten (10) days after the performance of the applicable portion of Services. EMC's entire liability and Customer's sole remedy for EMC's failure to so perform shall be for EMC to, at its option, (i) correct such failure, and/or (ii) terminate this document and refund that portion of any fees received that correspond to such failure to perform. **EXCEPT AS EXPRESSLY STATED IN THIS WARRANTY SECTION, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EMC (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, AND DISCLAIMS ALL IMPLIED WARRANTIES. INsofar AS PERMITTED UNDER APPLICABLE LAW, ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.**

1.6 LIMITATIONS OF LIABILITY. **EMC'S TOTAL LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH THIS DOCUMENT OR SERVICES PROVIDED HEREUNDER, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY EMC'S SOLE NEGLIGENCE IN AN AMOUNT NOT TO EXCEED THE PRICE PAID TO EMC FOR THE SERVICES RENDERED HEREUNDER. EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF EMC'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL HAVE LIABILITY TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), EVEN IF ADVISED OF THE POSSIBILITY THEREOF.**

1.7 Miscellaneous. The parties shall act as independent contractors for all purposes hereunder. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other, or both parties as joint venturers or partners for any purpose. Neither party shall be responsible for the acts or omissions of the other, and neither party will have authority to speak for, represent or obligate the other party in any way without the prior written approval of the other party. Each party shall comply with all applicable export laws, orders and regulations and obtain all necessary governmental permits, licenses and clearances. Diversion contrary to US law, including US export laws is expressly prohibited. This document shall be governed by the laws of the Commonwealth of Massachusetts for transactions taking place in the United States and the country in which the EMC entity is located for transactions taking place outside of the United States, excluding any conflict of law rules. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

Copyright © 2017 EMC Corporation. All rights reserved.

For the most up-to-date listing of EMC trademarks, see the list posted on EMC's website currently located at:

<http://www.emc.com/legal/emc-corporation-trademarks.htm>

All other trademarks used herein are the property of their respective owners.

Installation for Dell EMC Unity Hardware

Model Number: PS-PDP-UXHWIN

Direct Sale from EMC to Customer: This document and the performance of the Services detailed herein are subject to (i) the most recently signed agreement between Customer and EMC that contains terms and conditions designated to apply to professional services ("Existing Agreement"); or (ii) in the absence thereof, EMC's standard terms and conditions for professional services specified below. In the event of a conflict between this document and your Existing Agreement, this document shall govern.

Sale by EMC Authorized Reseller to Customer: If you have purchased the Services detailed herein through an EMC authorized reseller, this document is for descriptive and informational purposes only and does not establish a contractual relationship or any rights or obligations between you and EMC. Such Services are governed solely by the agreement between you and your EMC authorized reseller. EMC has permitted your EMC authorized reseller to provide this document to you. Your EMC authorized reseller may make arrangements with EMC to perform all or a portion of the Services on behalf of the reseller.

Sale from EMC to EMC Authorized Reseller: This document and the performance of the Services detailed herein are subject to the professional services terms and conditions between you ("Partner") and EMC that are specified in (i) the signed product and services ordering agreement, if any; or (ii) the applicable signed stand-alone professional services agreement ("PSA") if any, and in case both exist, the document having the later effective date shall govern; or (iii) in the absence of the previously described agreements, EMC's standard terms and conditions for professional services specified below. Partner acknowledges and agrees that: (a) its agreements with its customers ("End-Users") for the Services detailed herein are not contracts of EMC; (b) Partner has no right or power to bind EMC to any commitments unless otherwise explicitly agreed upon in writing by EMC and shall not represent otherwise or purport to do so; (c) End Users are not third-party beneficiaries of this document or any other agreement between EMC and Partner; (d) all references to "Customer" in this document shall mean the Partner who is purchasing the Services; and (e) where the provision of the Services by EMC is contingent on a Partner obligation, then that obligation may also apply to its End-User with respect to the provision of Services to such End-User. Partner shall ensure that such End-User complies with such obligations where applicable. In the event the End-User fails to meet such an obligation, then EMC shall not be liable for any resulting failure to perform its obligations. In the event of a conflict between this document and the agreements referenced in (i) and (ii) above, this document shall govern.

Service Description

This service provides installation, cabling, powering up, initializing a new Dell EMC Unity storage system and setting up connectivity to CloudIQ, into an existing environment within a single site. This service provides installation of Disk Processor Enclosure (DPE), Disk Array Enclosure (DAE) and dense DAEs in combination for a new Dell EMC Unity system. For the installation, the DPE can be twelve 3.5 inch or twenty-five 2.5 inch disks, the DAE can be fifteen 3.5 inch or twenty-five 2.5 inch disks and dense DAE with eighty 2.5 inch disks, and includes racking, cabling, and installation.

Project Scope

EMC personnel or authorized agents ("EMC Personnel") shall work closely with Customer's staff to perform the services specified below ("Services"), subject to the Customer satisfying the "Customer Responsibilities" detailed in this document.

During this part of the service, EMC:

- Meets with the Customer to ensure that the environment and operational implementation requirements (hardware, software, and infrastructure) are met by the Customer, and provides the Customer with a list of required or beneficial updates.
- Plans and estimates a schedule for the installation and/or configuration tasks for the services.
- Gathers Customer environment information to complete the *Configuration Worksheet* with details required for planning Dell EMC Unity system installation.
- Conducts meeting to review implementation plan and validates that site and equipment is ready for installation.
- Performs pre-installation validation comparing the equipment against *Configuration Worksheet* including licenses, software on a service laptop or management station, and tools required for installation.
- Unpacks and installs DPE, DAEs and dense DAEs into a single Dell EMC Unity system as applicable.
- Installs the Dell EMC Unity system including racking, cabling the components, attaching to the Customer's power and IP network, and powering up and validating that the system is online.
- Configures Service Processor management interface, registers the system, installs licenses, upgrades software if required, adds DNS and NTP information, adds support credentials, and configures ESRS.
- Sets up Dell EMC Unity storage array connectivity to CloudIQ.
- Moves used packaging materials to trash and recycling facility or other designated area within the immediate installation location.
- Verifies the installation and configuration results by running a system health report.
- Provides the Customer with *Configuration Worksheet* and *Configuration Report* from the Dell EMC Unity system.

The following activities focus on managing the initiation, planning, execution, and closure of the project including coordinating delivery resources and communicating with stakeholders:

- Manages EMC resources assigned to the project.
- Works with the Customer assigned single point of contact to coordinate project tasks and the resources assigned to complete said tasks.
- Acts as the single point of contact for all project communication and escalations.
- Conducts a kickoff meeting to review the project scope, expectations, communication plans, and availability of required resources.
- Coordinates project closeout, review, and sign-off.

Deliverables

EMC will provide Customer with the following Deliverables in connection with the Services:

- *Project Completion Form*

EMC Staffing

EMC will provide appropriate EMC Personnel to perform the Services specified in the "Project Scope" section above.

Customer Responsibilities

Customer's timely provision to EMC of office accommodations, facilities, equipment, assistance, cooperation, complete and accurate information and data from Customer officers, agents, and employees, suitably configured computer products, and network access is essential to the performance of the Services set forth in this document. Customer is responsible for ensuring that all Customer data has been backed-up prior to commencement of the Services. EMC assumes no responsibility or liability for any loss of, loss of access to, or unrecoverable data in connection with the Services.

The following are the additional responsibilities of Customer:

- Provide at least one technical contact with system administration responsibilities and appropriate system/information access privileges.
- Make appropriate system maintenance window(s) available for EMC Personnel as needed to prepare equipment.
- Ensure that all environment, technical, and operational requirements are met prior to commencement of the Services.
- Provide EMC Personnel with access to the Customer's subject matter experts, systems and networks (including, without limitation, remote systems/ network access) necessary to perform the Services during EMC's normal business hours (or other mutually agreed upon times).
- Provide support from technical support teams for all vendors and third parties, as necessary.
- Assume all responsibility for network connectivity, performance, and configuration issues.
- Verify that the equipment location(s) is/are prepared prior to the commencement of the Services.

Service Schedule

Unless otherwise mutually agreed in writing, the anticipated start date of the Services is within two (2) weeks after receipt and approval by EMC of the Customer's purchase order for this Service.

Customer shall have twelve (12) months from the date of EMC's invoice to use the Services described herein ("**Service Period**"). The Services shall automatically expire on the last day of the Service Period, unless otherwise agreed by EMC. Under no circumstances shall Customer be entitled to a credit or refund of any unused portion of the Services.

Services Scope Changes

Any changes to the Services, the schedule, charges or this document must be mutually agreed upon by EMC and the Customer in writing. Depending on the scope of such changes, EMC may require that a separate Statement of Work detailing the changes, the impact of the proposed changes on the charges and schedule, and other relevant terms, be executed by the parties.

Services Scope Exclusions

EMC is responsible for performing only the Services expressly specified in this document. All other services, tasks, and activities are considered out of scope.

Customer will maintain a current version of an anti-virus application continuously running on any system to which EMC is given access and will scan all Deliverables and the media on which they are delivered. Customer shall take reasonable data back-up measures and, in particular, shall provide for a daily back-up process and back-up the relevant data before EMC performs any remedial, upgrade, or other works on Customer's production systems. To the extent EMC's liability for loss of data is not anyway excluded under the Existing Agreement or this document, EMC shall, in case of data losses, only be liable for the typical effort to recover the data which would have accrued if Customer had appropriately backed up its data.

Fixed Bid Service Fee and Invoicing Schedule

The Services described in this document are delivered on consecutive days during EMC's normal business hours (8:00 A.M.–6:00 P.M. local time, M–F, excluding EMC and local holidays). However, some Services may require scheduling by EMC for delivery outside of normal business hours due to the nature of the Services being performed (e.g. on-site hardware deployment).

The Services described in this document are performed on a fixed price basis at the fees specified in the applicable EMC quote.

The Services will be delivered using EMC's standard delivery model, which may include onsite and/or offsite delivery of the Services. If the Customer requires a different delivery model, the charges, expenses, scope of work and/or schedule are subject to modification in accordance with the "Services Scope Changes" section in this document. If the Customer does not authorize such change(s) in accordance with the "Services Scope Changes" section, EMC and the Customer agree that EMC's standard delivery model will apply for the Services. (Not applicable to U.S. Government or U.S. State engagements that preclude the use of offsite delivery of services.)

Invoices are issued upon EMC's receipt and approval of the Customer's purchase order.

Customer authorizes EMC to invoice for and shall pay additional amounts related to changes or exceptions to the Services.

PROFESSIONAL SERVICES TERMS AND CONDITIONS

The following terms and conditions govern this document:

1.1 Term; Termination. This document begins on the date specified in the "Service Schedule" section above, and, unless terminated for breach, continues in accordance with its terms. A party shall notify the other in writing in case of the other's alleged breach of a material provision of this document. The recipient shall have thirty (30) calendar days from the date of receipt of such notice to effect a cure ("**Cure Period**"). If the recipient of such notice fails to effect a cure within the Cure Period, then the sender of the notice shall have the option of sending a written notice of termination, which shall take effect upon receipt.

1.2 Grant of Copyright or License Rights in Deliverables. Subject to Customer's payment of all amounts due EMC, the parties agree (i) Customer shall own all copyright rights to the portion of Deliverables (defined below) that consists solely of written reports, analyses and other working papers prepared and delivered by EMC to Customer in the performance of EMC's obligations hereunder, and (ii) for the portion of Deliverables that consists of scripts and code, EMC grants Customer a non-exclusive, non-transferable, irrevocable (except in case of breach of this document) perpetual right to use, copy and create derivative works from such (without the right to sublicense) for Customer's internal business operations, as contemplated hereunder. The license granted in this section does not apply to (a) Customer furnished materials, and (b) any other EMC products or items licensed, or otherwise provided, under a separate agreement. "**Deliverables**" means any reports, analyses, scripts, code or other work results which have been delivered by EMC to Customer within the framework of fulfilling obligations under this document.

1.2.1 Customer Furnished Materials. Customer does not relinquish any of its rights in materials it furnishes to EMC for use in performing the Services. Pursuant to Customer's Proprietary Rights (defined below) therein, Customer grants EMC a non-exclusive, non-transferable right to use such solely for the benefit of Customer in fulfillment of EMC's obligations hereunder.

1.2.2 Reservation of Proprietary Rights. Each party reserves for itself all Proprietary Rights that it has not expressly granted to the other. EMC shall not be limited in developing, using or marketing services or products which are similar to the Deliverables or Services provided hereunder, or, subject to EMC's confidentiality obligations to Customer, in using the Deliverables or performing similar Services for any

other projects. “**Proprietary Rights**” mean all patents, copyrights, trade secrets, methodologies, ideas, concepts, inventions, know-how, techniques or other intellectual property rights of a party.

1.3 Confidential Information; Publicity. “**Confidential Information**” means any information that is marked “confidential”, “proprietary” or the like or in relation to which its confidentiality should by its nature be inferred or, if disclosed orally, are identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, is summarized, appropriately labeled and provided in tangible form. Confidential Information does not include information that is (i) rightfully in the receiving party’s possession without prior obligation of confidentiality from the disclosing party; (ii) a matter of public knowledge; (iii) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (iv) independently developed by the receiving party without reference to the disclosing party’s Confidential Information. Each party shall (a) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations hereunder; and (b) protect from disclosure to any third parties, by use of a standard of care equivalent to that as used by recipient to protect its own information of a similar nature and importance, and, no less than the use of reasonable care, any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to (1) Customer data to which EMC may have access in connection with the provision of Services, which shall remain Confidential Information until one of the exceptions stated above applies; and (2) Confidential Information that constitutes, contains or reveals, in whole or in part, EMC proprietary rights, which shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (A) to its Affiliate (defined below) for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliate complies with the foregoing; and (B) to the extent required by law (provided the receiving party has given the disclosing party prompt notice). “**Affiliate**” means a legal entity that is controlled by, controls, or is under common “control” with EMC or Customer, respectively. “**Control**” means more than 50% of the voting power or ownership interests. Each party shall not, and shall not authorize or assist another to, originate, produce, issue or release any written publicity, news release, marketing collateral or other publication or public announcement, relating in any way to this document, without the prior written approval of the other, which approval shall not be unreasonably withheld.

1.4 Payment. Customer shall pay EMC’s invoices in full and in the same currency as the EMC invoice within thirty (30) days after the date of EMC’s invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate. The charges due hereunder are exclusive of and Customer shall pay or reimburse EMC for all value added (VAT), sales, use, excise, withholding, personal property, goods and services and other taxes, levies, customs and duties resulting from Customer’s purchase order, except for taxes based on EMC’s net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to EMC at tax@emc.com.

1.5 Warranty; Warranty Disclaimer. EMC shall perform the Services in a workmanlike manner in accordance with generally accepted industry standards. Customer must notify EMC of any failure to so perform within ten (10) days after the performance of the applicable portion of Services. EMC’s entire liability and Customer’s sole remedy for EMC’s failure to so perform shall be for EMC to, at its option, (i) correct such failure, and/or (ii) terminate this document and refund that portion of any fees received that correspond to such failure to perform. **EXCEPT AS EXPRESSLY STATED IN THIS WARRANTY SECTION, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EMC (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, AND DISCLAIMS ALL IMPLIED WARRANTIES. INsofar as permitted under applicable law, all other warranties are specifically excluded, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and any warranty arising by statute,**

OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.

1.6 LIMITATIONS OF LIABILITY. EMC'S TOTAL LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH THIS DOCUMENT OR SERVICES PROVIDED HEREUNDER, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY EMC'S SOLE NEGLIGENCE IN AN AMOUNT NOT TO EXCEED THE PRICE PAID TO EMC FOR THE SERVICES RENDERED HEREUNDER. EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF EMC'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL HAVE LIABILITY TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

1.7 Miscellaneous. The parties shall act as independent contractors for all purposes hereunder. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other, or both parties as joint venturers or partners for any purpose. Neither party shall be responsible for the acts or omissions of the other, and neither party will have authority to speak for, represent or obligate the other party in any way without the prior written approval of the other party. Each party shall comply with all applicable export laws, orders and regulations and obtain all necessary governmental permits, licenses and clearances. Diversion contrary to US law, including US export laws is expressly prohibited. This document shall be governed by the laws of the Commonwealth of Massachusetts for transactions taking place in the United States and the country in which the EMC entity is located for transactions taking place outside of the United States, excluding any conflict of law rules. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

Copyright © 2017 Dell Inc. or its subsidiaries. All rights reserved. Dell, EMC, Dell EMC and other trademarks are trademarks of Dell Inc. or its subsidiaries. Other trademarks may be trademarks of their respective owners.

Implementation for Dell EMC Unity

Model Number: PS-BAS-UXIMB

Direct Sale from EMC to Customer: This document and the performance of the Services detailed herein are subject to (i) the most recently signed agreement between Customer and EMC that contains terms and conditions designated to apply to professional services ("Existing Agreement"); or (ii) in the absence thereof, EMC's standard terms and conditions for professional services specified below. In the event of a conflict between this document and your Existing Agreement, this document shall govern.

Sale by EMC Authorized Reseller to Customer: If you have purchased the Services detailed herein through an EMC authorized reseller, this document is for descriptive and informational purposes only and does not establish a contractual relationship or any rights or obligations between you and EMC. Such Services are governed solely by the agreement between you and your EMC authorized reseller. EMC has permitted your EMC authorized reseller to provide this document to you. Your EMC authorized reseller may make arrangements with EMC to perform all or a portion of the Services on behalf of the reseller.

Sale from EMC to EMC Authorized Reseller: This document and the performance of the Services detailed herein are subject to the professional services terms and conditions between you ("Partner") and EMC that are specified in (i) the signed product and services ordering agreement, if any; or (ii) the applicable signed stand-alone professional services agreement ("PSA") if any, and in case both exist, the document having the later effective date shall govern; or (iii) in the absence of the previously described agreements, EMC's standard terms and conditions for professional services specified below. Partner acknowledges and agrees that: (a) its agreements with its customers ("End-Users") for the Services detailed herein are not contracts of EMC; (b) Partner has no right or power to bind EMC to any commitments unless otherwise explicitly agreed upon in writing by EMC and shall not represent otherwise or purport to do so; (c) End Users are not third-party beneficiaries of this document or any other agreement between EMC and Partner; (d) all references to "Customer" in this document shall mean the Partner who is purchasing the Services; and (e) where the provision of the Services by EMC is contingent on a Partner obligation, then that obligation may also apply to its End-User with respect to the provision of Services to such End-User. Partner shall ensure that such End-User complies with such obligations where applicable. In the event the End-User fails to meet such an obligation, then EMC shall not be liable for any resulting failure to perform its obligations. In the event of a conflict between this document and the agreements referenced in (i) and (ii) above, this document shall govern.

Service Description

This service offering covers the remote implementation of a Dell EMC Unity system in a Customer's environment. The storage implementation provides configuration and validation of up to two attached Fibre Channel (FC) or iSCSI hosts with supported multipath software and creation of five shares or exports (SMB or NFS), or a combination.

Project Scope

EMC personnel or authorized agents ("EMC Personnel") shall work closely with Customer's staff to perform the services specified below ("Services"), subject to the Customer satisfying the "Customer Responsibilities" detailed in this document.

This service includes the following components (not to exceed the listed values):

- Dell EMC Unity Arrays: 1
- Hosts : 2

- NFS Shares: 5
- CIFS/SMB Shares : 5
- Multiprotocol Shares : 5

During this part of the service, EMC:

- Plans and estimates a schedule for the installation and/or configuration tasks for the Services.
- Gathers Customer environment information to complete the *Configuration Worksheet* with details required for planning Dell EMC Unity system installation.
- Obtains and reviews Customer's requirements and plans implementation of Dell EMC Unity.
- Conducts meeting to review implementation plan and validates that site and equipment are ready for installation.
- Performs planning and design for Dell EMC Unity installation and implementation.
- Documents the proposed architecture in the *Configuration Guide*.
- Obtains *Dell EMC Unity Installation Worksheet* and *Dell EMC Unity Configuration Report* (report produced from Unisphere documenting the Dell EMC Unity configuration details) from EMC personnel or the Customer and reviews it for accuracy.
- Identifies additional requirements like licenses and beneficial updates like software upgrades and communicates them to the Customer.
- Reviews implementation details with the Customer and validates that Dell EMC Unity is ready, required licenses are installed, sufficient amount of SAS flash disks are available to meet Customer's FAST Cache requirements, connectivity from storage to hosts, and ESRS is setup.
- Configures storage for provisioning.
- Configures SAN zoning for host implementation.
- Reviews Host implementation details with the Customer and validates that all requirements are met.
- Implements Customer-supplied FC or iSCSI hosts with installed operating systems and supported version of PowerPath multipath software.
- Validates sufficient amount of capacity availability to provision storage to hosts.
- Validates connectivity from storage to hosts.
- Validates hosts' access to the provisioned storage volumes.
- Reviews File implementation details with the Customer and validates that all requirements are met.
- Validates sufficient amount of capacity availability to configure file storage.
- Validates clients' access to the added shares and exports (NFS and SMB).
- Completes solution design validation.
- Conducts an implementation review meeting.
- Validates that the equipment is on site at the appropriate location with power and cable requirements met.
- Configures pools, file systems, NAS servers, shares or exports (NFS and SMB), users, quotas, and alerts.

- Prepares the existing Dell EMC Unity storage array, performs upgrade and verifies that the data-in-place upgrade results are correct.
- Performs the tests in the *Test Plan*.
- Provides the Customer with the *Configuration Guide* and *Test Plan* documents updated with implementation results.
- Conducts a basic product Functional Overview to familiarize the Customer with the implemented Dell EMC Unity storage system, demonstrating the normal operations as installed in the Customer's environment.
- Coordinates project closeout, review, and sign-off.
- Registers Customer to receive product alerts.
- Completes solution implementation validation.
- Conducts a basic Functional Overview.

The following activities focus on managing the initiation, planning, execution, and closure of the project including coordinating delivery resources and communicating with stakeholders:

- Manages EMC resources assigned to the project.
- Works with the Customer assigned single point of contact to coordinate project tasks and the resources assigned to complete said tasks.
- Acts as the single point of contact for all project communication and escalations.
- Determines the engagement process and schedule.
- Develops a high-level *Project Plan* with critical path events and milestones.
- Conducts a kickoff meeting to review the project scope, expectations, communication plans, and availability of required resources.
- Conducts periodic status meetings to review project process, issues, and potential risks. The frequency of the meetings will be mutually agreed upon by the Customer and EMC.
- Coordinates project closeout, review, and sign-off.

Deliverables

EMC will provide Customer with the following Deliverables in connection with the Services:

- *Configuration Guide*
- *Test Plan*
- *Project Completion Form*

EMC Staffing

EMC will provide appropriate EMC Personnel to perform the Services specified in the "Project Scope" section above.

Customer Responsibilities

Customer's timely provision to EMC of office accommodations, facilities, equipment, assistance, cooperation, complete and accurate information and data from Customer officers, agents, and employees, suitably configured computer products, and network access is essential to the performance of the Services set forth in this document. Customer is responsible for ensuring that all Customer data has been backed-up prior to commencement of the Services. EMC assumes no responsibility or liability for any loss of, loss of access to, or unrecoverable data in connection with the Services.

The following are the additional responsibilities of Customer:

- Make appropriate system maintenance windows available for EMC (or authorized agents) as needed to prepare equipment.
- Provide technical support for implementation teams, all vendors, and third parties as necessary.
- Assume responsibility for all network connectivity, performance, and configuration issues.
- Provide at least one technical contact with system administration responsibilities and appropriate system/information access privileges.
- Ensure that all environment, technical, and operational requirements are met prior to commencement of the Services.
- Provide EMC Personnel with access to the Customer's subject matter experts, systems and networks (including, without limitation, remote systems/ network access) necessary to perform the Services during EMC's normal business hours (or other mutually agreed upon times).
- Ensure that all Customer data has been backed-up prior to commencement of the Services. EMC assumes no responsibility or liability for any loss of, loss of access to, or unrecoverable data in connection with the Services.
- Verify that the equipment location(s) is/are prepared prior to the commencement of the Services.

Service Schedule

Unless otherwise mutually agreed in writing, the anticipated start date of the Services is within two (2) weeks after receipt and approval by EMC of the Customer's purchase order for this Service.

Customer shall have twelve (12) months from the date of EMC's invoice to use the Services described herein ("**Service Period**"). The Services shall automatically expire on the last day of the Service Period, unless otherwise agreed by EMC. Under no circumstances shall Customer be entitled to a credit or refund of any unused portion of the Services.

Services Scope Changes

Any changes to the Services, the schedule, charges or this document must be mutually agreed upon by EMC and the Customer in writing. Depending on the scope of such changes, EMC may require that a separate Statement of Work detailing the changes, the impact of the proposed changes on the charges and schedule, and other relevant terms, be executed by the parties.

Services Scope Exclusions

EMC is responsible for performing only the Services expressly specified in this document. All other services, tasks, and activities are considered out of scope.

Customer will maintain a current version of an anti-virus application continuously running on any system to which EMC is given access and will scan all Deliverables and the media on which they are delivered. Customer shall take reasonable data back-up measures and, in particular, shall provide for a daily back-up process and back-up the relevant data before EMC performs any remedial, upgrade, or other works on Customer's production systems. To the extent EMC's liability for loss of data is not anyway excluded under the Existing Agreement or this document, EMC shall, in case of data losses, only be liable for the typical effort to recover the data which would have accrued if Customer had appropriately backed up its data.

Fixed Bid Service Fee and Invoicing Schedule

The Services described in this document are delivered on consecutive days during EMC's normal business hours (8:00 A.M.–6:00 P.M. local time, M–F, excluding EMC and local holidays). However,

some Services may require scheduling by EMC for delivery outside of normal business hours due to the nature of the Services being performed (e.g. on-site hardware deployment).

The Services described in this document are performed on a fixed price basis at the fees specified in the applicable EMC quote.

The Services will be delivered using EMC's standard delivery model, which may include onsite and/or offsite delivery of the Services. If the Customer requires a different delivery model, the charges, expenses, scope of work and/or schedule are subject to modification in accordance with the "Services Scope Changes" section in this document. If the Customer does not authorize such change(s) in accordance with the "Services Scope Changes" section, EMC and the Customer agree that EMC's standard delivery model will apply for the Services. (Not applicable to U.S. Government or U.S. State engagements that preclude the use of offsite delivery of services.)

Invoices are issued upon EMC's receipt and approval of the Customer's purchase order.

Customer authorizes EMC to invoice for and shall pay additional amounts related to changes or exceptions to the Services.

PROFESSIONAL SERVICES TERMS AND CONDITIONS

The following terms and conditions govern this document:

1.1 Term; Termination. This document begins on the date specified in the "Service Schedule" section above, and, unless terminated for breach, continues in accordance with its terms. A party shall notify the other in writing in case of the other's alleged breach of a material provision of this document. The recipient shall have thirty (30) calendar days from the date of receipt of such notice to effect a cure ("**Cure Period**"). If the recipient of such notice fails to effect a cure within the Cure Period, then the sender of the notice shall have the option of sending a written notice of termination, which shall take effect upon receipt.

1.2 Grant of Copyright or License Rights in Deliverables. Subject to Customer's payment of all amounts due EMC, the parties agree (i) Customer shall own all copyright rights to the portion of Deliverables (defined below) that consists solely of written reports, analyses and other working papers prepared and delivered by EMC to Customer in the performance of EMC's obligations hereunder, and (ii) for the portion of Deliverables that consists of scripts and code, EMC grants Customer a non-exclusive, non-transferable, irrevocable (except in case of breach of this document) perpetual right to use, copy and create derivative works from such (without the right to sublicense) for Customer's internal business operations, as contemplated hereunder. The license granted in this section does not apply to (a) Customer furnished materials, and (b) any other EMC products or items licensed, or otherwise provided, under a separate agreement. "**Deliverables**" means any reports, analyses, scripts, code or other work results which have been delivered by EMC to Customer within the framework of fulfilling obligations under this document.

1.2.1 Customer Furnished Materials. Customer does not relinquish any of its rights in materials it furnishes to EMC for use in performing the Services. Pursuant to Customer's Proprietary Rights (defined below) therein, Customer grants EMC a non-exclusive, non-transferable right to use such solely for the benefit of Customer in fulfillment of EMC's obligations hereunder.

1.2.2 Reservation of Proprietary Rights. Each party reserves for itself all Proprietary Rights that it has not expressly granted to the other. EMC shall not be limited in developing, using or marketing services or products which are similar to the Deliverables or Services provided hereunder, or, subject to EMC's confidentiality obligations to Customer, in using the Deliverables or performing similar Services for any other projects. "**Proprietary Rights**" mean all patents, copyrights, trade secrets, methodologies, ideas, concepts, inventions, know-how, techniques or other intellectual property rights of a party.

1.3 Confidential Information; Publicity. "**Confidential Information**" means any information that is marked "confidential", "proprietary" or the like or in relation to which its confidentiality should by its

nature be inferred or, if disclosed orally, are identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, is summarized, appropriately labeled and provided in tangible form. Confidential Information does not include information that is (i) rightfully in the receiving party's possession without prior obligation of confidentiality from the disclosing party; (ii) a matter of public knowledge; (iii) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (iv) independently developed by the receiving party without reference to the disclosing party's Confidential Information. Each party shall (a) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations hereunder; and (b) protect from disclosure to any third parties, by use of a standard of care equivalent to that as used by recipient to protect its own information of a similar nature and importance, and, no less than the use of reasonable care, any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to (1) Customer data to which EMC may have access in connection with the provision of Services, which shall remain Confidential Information until one of the exceptions stated above applies; and (2) Confidential Information that constitutes, contains or reveals, in whole or in part, EMC proprietary rights, which shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (A) to its Affiliate (defined below) for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliate complies with the foregoing; and (B) to the extent required by law (provided the receiving party has given the disclosing party prompt notice). "Affiliate" means a legal entity that is controlled by, controls, or is under common "control" with EMC or Customer, respectively. "Control" means more than 50% of the voting power or ownership interests. Each party shall not, and shall not authorize or assist another to, originate, produce, issue or release any written publicity, news release, marketing collateral or other publication or public announcement, relating in any way to this document, without the prior written approval of the other, which approval shall not be unreasonably withheld.

1.4 Payment. Customer shall pay EMC's invoices in full and in the same currency as the EMC invoice within thirty (30) days after the date of EMC's invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate. The charges due hereunder are exclusive of and Customer shall pay or reimburse EMC for all value added (VAT), sales, use, excise, withholding, personal property, goods and services and other taxes, levies, customs and duties resulting from Customer's purchase order, except for taxes based on EMC's net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to EMC at tax@emc.com.

1.5 Warranty; Warranty Disclaimer. EMC shall perform the Services in a workmanlike manner in accordance with generally accepted industry standards. Customer must notify EMC of any failure to so perform within ten (10) days after the performance of the applicable portion of Services. EMC's entire liability and Customer's sole remedy for EMC's failure to so perform shall be for EMC to, at its option, (i) correct such failure, and/or (ii) terminate this document and refund that portion of any fees received that correspond to such failure to perform. **EXCEPT AS EXPRESSLY STATED IN THIS WARRANTY SECTION, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EMC (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, AND DISCLAIMS ALL IMPLIED WARRANTIES. INsofar AS PERMITTED UNDER APPLICABLE LAW, ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.**

1.6 LIMITATIONS OF LIABILITY. **EMC'S TOTAL LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH THIS DOCUMENT OR SERVICES PROVIDED**

HEREUNDER, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY EMC'S SOLE NEGLIGENCE IN AN AMOUNT NOT TO EXCEED THE PRICE PAID TO EMC FOR THE SERVICES RENDERED HEREUNDER. EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF EMC'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL HAVE LIABILITY TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

1.7 Miscellaneous. The parties shall act as independent contractors for all purposes hereunder. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other, or both parties as joint venturers or partners for any purpose. Neither party shall be responsible for the acts or omissions of the other, and neither party will have authority to speak for, represent or obligate the other party in any way without the prior written approval of the other party. Each party shall comply with all applicable export laws, orders and regulations and obtain all necessary governmental permits, licenses and clearances. Diversion contrary to US law, including US export laws is expressly prohibited. This document shall be governed by the laws of the Commonwealth of Massachusetts for transactions taking place in the United States and the country in which the EMC entity is located for transactions taking place outside of the United States, excluding any conflict of law rules. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

Copyright © 2017 Dell Inc. or its subsidiaries. All rights reserved. Dell, EMC, Dell EMC and other trademarks are trademarks of Dell Inc. or its subsidiaries. Other trademarks may be trademarks of their respective owners.



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

State of West Virginia
 Request for Quotation
 13 – Equipment

Proc Folder: 461061

Doc Description: Unity 350F SAN

Proc Type: Central Purchase Order

Date Issued	Solicitation Closes	Solicitation No	Version
2018-06-14	2018-06-28 13:30:00	CRFQ 1400 AGR1800000005	1

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Name, Address and Telephone Number:

Pomeroy
 Attn: Summer Bailey
 500 Westmoreland Office Park
 Dunbar, WV 25064

FOR INFORMATION CONTACT THE BUYER

Guy Nisbet
 (304) 558-2596
 guy.l.nisbet@wv.gov

Signature X *Summer Bailey*

FEIN # 61-1352158

DATE 06/28/2018

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

ADDITIONAL INFORMATION:

Request for Quotation

The West Virginia Purchasing Division is soliciting bids on behalf of the Agency, The West Virginia Department of Agriculture (WVDA) to establish a contract for the one-time purchase of a Dell Unity 350F SAN or Equal per the bid requirements, specifications and terms and conditions as attached hereto.

INVOICE TO		SHIP TO	
PROCUREMENT OFFICER 304-558-2221		AUTHORIZED RECEIVER 304-558-2202	
AGRICULTURE DEPARTMENT OF ADMINISTRATIVE SERVICES		AGRICULTURE DEPARTMENT OF INFORMATION TECHNOLOGY DIVISION	
1900 KANAWHA BLVD E		163 GUS R DOUGLAS LN, BLDG 1	
CHARLESTON WV25305-0173		CHARLESTON WV 25312	
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Unity 350F SAN	1.00000	EA	\$130,599.00	\$130,599.00

Comm Code	Manufacturer	Specification	Model #
43211501	Dell/EMC	Specs Attached	Unity 350F

Extended Description :

If Vendor is submitting an Alternate "or Equal" product, this information must be identified per Specification Item 4.2 at the time of submitting bid response.

AGR1800000005	Document Phase Final	Document Description Unity 350F SAN	Page 3 of 3
----------------------	--------------------------------	---	------------------------------

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. REVIEW DOCUMENTS THOROUGHLY: The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. MANDATORY TERMS: The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. PREBID MEETING: The item identified below shall apply to this Solicitation.

A pre-bid meeting will not be held prior to bid opening

A NON-MANDATORY PRE-BID meeting will be held at the following place and time:

A MANDATORY PRE-BID meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding.

Submitted e-mails should have solicitation number in the subject line.

Question Submission Deadline: June 19th, 2018 at 9:00 AM. EST.

Submit Questions to: Guy Nisbet
 2019 Washington Street, East
 Charleston, WV 25305
 Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)
 Email: Guy.L.Nisbet@WV.Gov.

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted electronically through wvOASIS or signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include electronic submission via wvOASIS, hand delivery, delivery by courier, or facsimile.

The bid delivery address is:
 Department of Administration, Purchasing Division
 2019 Washington Street East
 Charleston, WV 25305-0130

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope or the bid may be rejected by the Purchasing Division.:

SEALED BID: WVDA Unity 350F San
 BUYER:
 SOLICITATION NO.:
 BID OPENING DATE:
 BID OPENING TIME:
 FAX NUMBER:

The Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS. Submission of a response to an Expression or Interest or Request for Proposal is not permitted in wvOASIS.

For Request For Proposal ("RFP") Responses Only: In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus N/A convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE: (This only applies to CRFP)

- Technical
 Cost

7. BID OPENING: Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time: June 28th, 2018 at 1:30 PM. EST.

Bid Opening Location: Department of Administration, Purchasing Division
 2019 Washington Street East
 Charleston, WV 25305-0130

8. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. BID FORMATTING: Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

10. ALTERNATE MODEL OR BRAND: Unless the box below is checked, any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

This Solicitation is based upon a standardized commodity established under W. Va. Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

11. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

13. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.

14. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

15. PREFERENCE: Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and should include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at:

<http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

15A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. A request form to help facilitate the request can be found at:

<http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

16. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES: For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

17. WAIVER OF MINOR IRREGULARITIES: The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

18. ELECTRONIC FILE ACCESS RESTRICTIONS: Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

19. NON-RESPONSIBLE: The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform, or lacks the integrity and reliability to assure good-faith performance.”

20. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.5. and § 148-1-6.4.b.”

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

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

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

22. INTERESTED PARTY DISCLOSURE: West Virginia Code § 6D-1-2 requires that the vendor submit to the Purchasing Division a disclosure of interested parties to the contract for all contracts with an actual or estimated value of at least \$1 Million. That disclosure must occur on the form prescribed and approved by the WV Ethics Commission prior to contract award. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

23. WITH THE BID REQUIREMENTS: In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Director of the Purchasing Division reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under W. Va. CSR § 148-1-4.6. This authority does not apply to instances where state law mandates receipt with the bid.

GENERAL TERMS AND CONDITIONS:

- 1. CONTRACTUAL AGREEMENT:** Issuance of a Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
- 2. DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.
- 2.1. "Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
- 2.2. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.
- 2.3. "Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.
- 2.4. "Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.
- 2.5. "Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.
- 2.6. "Award Document"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.
- 2.7. "Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
- 2.8. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
- 2.9. "Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

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

Term Contract

Initial Contract Term: **Initial Contract Term:** This Contract becomes effective on _____ and extends for a period of _____ year(s).

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

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

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

Fixed Period Contract: This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within sixty (60) calendar days.

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

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

Other: See attached.

4. NOTICE TO PROCEED: Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

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

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

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

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

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

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

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

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

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

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

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

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

LICENSE(S) / CERTIFICATIONS / PERMITS: In addition to anything required under the Section of the General Terms and Conditions entitled *Licensing*, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

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

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

Vendor must maintain:

Commercial General Liability Insurance in at least an amount of: _____ per occurrence.

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

Professional/Malpractice/Errors and Omission Insurance in at least an amount of: _____ per occurrence.

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

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

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

Pollution Insurance in an amount of: _____ per occurrence.

Aircraft Liability in an amount of: _____ per occurrence.

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

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

10. [Reserved]

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

_____ for _____

Liquidated Damages Contained in the Specifications

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

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.

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

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

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

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

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

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

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

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

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

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

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

- 24. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.
- 25. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 26. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
- 27. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.
- 28. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
- 29. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 30. PRIVACY, SECURITY, AND CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revised 06/08/2018

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

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

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

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

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

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

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

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

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.

Summer Bailey, Technology Solutions Executive

(Name, Title)

Summer Bailey, Technology Solutions Executive

(Printed Name and Title)

Pomeroy - 500 Westmoreland Office Park - Dunbar, WV 25064

(Address)

304-553-7526 / 1-866-301-1761

(Phone Number) / (Fax Number)

summer.bailey@pomeroy.com

(email address)

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

Pomeroy

(Company)

Summer Bailey

(Authorized Signature) (Representative Name, Title)

Summer Bailey, Technology Solutions Executive

(Printed Name and Title of Authorized Representative)

06/28/2018

(Date)

304-553-7526 / 1-866-301-1761

(Phone Number) (Fax Number)

**ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.:**

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)

- | | |
|---|--|
| <input type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> 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 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.

Pomeroy

Company

Summer Bailey

Authorized Signature

06/28/2018

Date

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

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of West Virginia Department of Agriculture to establish a contract for the one-time purchase of a Dell Unity 350F SAN or Equal.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
 - 2.1 **“Contract Item”** means Dell Unity SAN or equal as more fully described by these specifications.
 - 2.2 **“Pricing Page”** means the pages, contained in wvOASIS or attached as Exhibit A, upon which Vendor should list its proposed price for the Contract Items.
 - 2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
 - 2.4 **“SFP”** means Small Form-Factor pluggable.
 - 2.5 **“ISCI”** Internet Small Computer Systems Interface
 - 2.6 **“STD”** means Standard
 - 2.7 **“ETH”** means Ethernet
 - 2.8 **“SW”** means Software
 - 2.9 **“Implementation and IMP”** means installation of selected hardware at customer site.
 - 2.10 **“DD”** means Data Domain
 - 2.11 **“VE”** means Virtual environment
 - 2.12 **“VM”** means Virtual Machine
 - 2.13 **“NBD”** means Next Business Day
 - 2.14 **“DPS”** means Virtual Machine
 - 2.15 **“ESRS”** means EMC Secure Remote Support

2.16 "AWS" means Amazon Web Service

2.17 "TB" means Terabyte

2.18 "SSD" means Solid State Drive

2.19 "FLD" means Field

2.20 "M&R" means Monitoring and Reporting

2.21 "GB" means Gigabyte

2.22 "VM" means Power Supply Unit

2.23 "CA" means Certificate Authority

2.24 "SEL" means Select

2.25 "LIC" means License

3. GENERAL REQUIREMENTS:

3.1 **Mandatory Contract Item Requirements:** Contract Item must meet or exceed the mandatory requirements listed below.

3.1.1 Dell Unity 350F SAN or Equal

3.1.1.1 Must have Chassis with a minimum of twenty-five (25), 2.5" hard drive bays.

3.1.1.2 SAN Chassis must include a minimum of 2 Power Supply Units.

3.1.1.3 Must have twelve (12) 2.5" SSD 3.84TB Drives with All-Flash Storage Array

3.1.1.4 Must have minimum 3-year hardware warranty for all hardware contained in Chassis, NBD parts.

3.1.1.5 Must have minimum 4x10GB SFP ISCSI/ETH Connections

3.1.1.6 SAN Chassis must have PRO-Support w/mission-critical hardware support or Equal.

3.1.1.6.1 NBD hardware replacement for all hardware that comprise the chassis.

3.1.1.7 Must include DD VE Configuration

3.1.1.8 Must include DD VE Channel 4TB Base

3.1.1.9 Must Include basic setup and configuration of hardware and software including storage services via webinar.

3.1.1.10 Must include sliding rail mounting hardware.

3.1.1.11 Must include minimum DD3300 16TB 1PSU 1GBE deduplication storage Pro Support w/NBD hardware support or Equal.

4. CONTRACT AWARD:

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

4.2 Pricing Page: Vendor should complete the Pricing Page by reviewing the Pricing Page and completing: Brand/Model being bid, Unit Price (x) Quantity of One (1) = Extended Price. TOTAL BID AMOUNT is the sum of the Extended Price. 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 Page to prevent errors in the evaluation.

If Vendor is Bidding an "or Equal" product Brand, Model, Part Number MUST be identified at the time of submitting bid response. Vendors are encouraged to submit any product brochures and noting "or Equal" claims and support information at the time of submitting bid response.

Vendor must provide any documentation requested by the State to assist in

confirmation of compliance with this provision. References, documentation, or other information to confirm compliance with this experience requirement may be requested after bid opening and prior to contract award.

5. PAYMENT:

5.1 Payment: Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

6. DELIVERY AND RETURN:

6.1 Shipment and Delivery: Vendor shall ship the Contract Items immediately after being awarded this Contract and receiving a purchase order or notice to proceed. Vendor shall deliver the Contract Items within sixty (60) calendar days after receiving a purchase order or notice to proceed. Contract Item must be delivered to Agency at 163 Gus R. Douglass Lane Charleston, WV 25312

6.2 Late Delivery: The Agency placing the order under this Contract must be notified in writing if the shipment of the Contract Items will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the Contract, and/or obtaining the Contract Items from a third party.

Any Agency seeking to obtain the Contract Items from a third party under this provision must first obtain approval of the Purchasing Division.

6.3 Delivery Payment/Risk of Loss: Vendor shall deliver the Contract Items F.O.B. destination to the Agency's location.

6.4 Return of Unacceptable Items: If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

6.5 Return Due to Agency Error: Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original

packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

7 VENDOR DEFAULT:

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

- 7.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.
- 7.1.2** Failure to comply with other specifications and requirements contained herein.
- 7.1.3** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 7.1.4** Failure to remedy deficient performance upon request.

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

- 7.2.1** Immediate cancellation of the Contract.
- 7.2.2** Immediate cancellation of one or more release orders issued under this Contract.
- 7.2.3** Any other remedies available in law or equity.

Exhibit "A"

PRICING PAGE

Item Spec	Description	Alternate Part # and Description of or equal Products	Unit of Measure	Qty	Unit Price	Extended Price
3.1.1	Unity 350F SAN or Equal		Each	1	\$130,599.00	\$130,599.00
					Total Bid Amount:	\$130,599.00

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 exceeds 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: Pomeroy

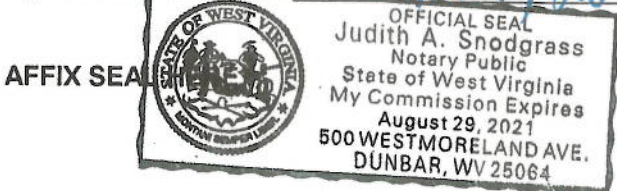
Authorized Signature: Summer Bailey Date: 6-28-2018

State of West Virginia

County of Kanawha, to-wit:

Taken, subscribed, and sworn to before me this 28th day of June, 2018.

My Commission expires Aug 29, 2021, 20 .



NOTARY PUBLIC Judith A. Snodgrass

AGREEMENT ADDENDUM

In the event of conflict between this addendum and the agreement, this addendum shall control:

- 1. DISPUTES - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. HOLD HARMLESS - Any provision requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. GOVERNING LAW - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. TAXES - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor.
5. PAYMENT - Any reference to prepayment are deleted. Fees for software licenses, subscriptions, or maintenance are payable annually in advance. Payment for services will be in arrears.
6. INTEREST - Any provision for interest or charges on late payments is deleted. The Agency has no statutory authority to pay interest or late fees.
7. NO WAIVER - Any language in the agreement requiring the Agency to waive any rights, claims or defenses is hereby deleted.
8. FISCAL YEAR FUNDING - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. STATUTE OF LIMITATIONS - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. SIMILAR SERVICES - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. FEES OR COSTS - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. ASSIGNMENT - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. LIMITATION OF LIABILITY - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages is hereby deleted. Vendor's liability under the agreement shall not exceed three times the total value of the agreement. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. RIGHT TO TERMINATE - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.
15. TERMINATION CHARGES - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. RENEWAL - Any references to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. INSURANCE - Any provision requiring the Agency to purchase insurance for Vendor's property is deleted. The State of West Virginia is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. RIGHT TO NOTICE - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. ACCELERATION - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. CONFIDENTIALITY - Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. AMENDMENTS - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.
22. DELIVERY - All deliveries under the agreement will be FOB destination unless otherwise stated in the State's original solicitation. Any contrary delivery terms are hereby deleted.

ACCEPTED BY: STATE OF WEST VIRGINIA

Spending Unit:
Signed:
Title:
Date:

VENDOR

Company Name: Pomeroy IT Solutions, Sales Co
Signed: Summer Bailey
Title: Technology Solutions Executive
Date: 06-28-18

Specs

POMEROY
infrastructure. optimized.™

Quote Prepared By: Summer Bailey
Email: summer.bailey@pomero.com
Quote # 6001895659 V04
Opportunity # OP-2965334

Date: 28-Jun-18

End User:	Reseller:
WEST VIRGINIA DEPARTMENT OF AGRICULTURE	POMEROY COMPUTER RESOURCES INC.
Jonathan Adkins	Summer Bailey
163 GUS R DOUGLASS LANE - CHARLESTON, WV 25312	500 Westmoreland Office Park - Dunbar, WV 25004

SKU	Item	Description	Qty	UOM	Maintenance Months
#N/A	D31DEMCK25KITAF	UNITY 25 DRIVE DPE AF FLD INSTALL KIT	1	EA	36
#N/A	PS-PD-UNYTRACKING	UNITY PRODEPLOY TRACKING	1	EA	
#N/A	D3SFP10IAF	UNITY 4X10GB SFP ISCSI/ETH CONNECTION	1	EA	36
#N/A	D31BD24AF25AF	UNITY 350F 2U DPE 25X2.5 DRIVE FLD RK	1	EA	36
#N/A	D3F-2SFXL2-3840	UNITY AFA 3.84TB SSD 25X2.5	12	EA	36
#N/A	VSC-SIA-12-PR	SEL STORAGE CLOUD STD IA CAP UNITY PROMO	9	EA	36
#N/A	PS-BAS-UXHWIN	HARDWARE INSTALLATION	1	EA	
#N/A	PS-BAS-UXIMB	IMPLEMENTATION FOR UNITY	1	EA	
9K6253	PSINST-ESRS	ZERO DOLLAR ESRS INSTALL	1	EA	
#N/A	M-PSM-HWE-005	PROSUPPORT W/MISSION CRITICAL-HARDWARE	1	EA	36
#N/A	458-001-840	UNITY 300F/350F BASE SOFTWARE- D@RE=IC	1	EA	36
#N/A	M-PSM-SWE-005	PROSUPPORT W/MISSION CRITICAL-SOFTWARE	1	EA	36
#N/A	458-001-440	RECOVERPOINT FOR VM STARTER PACKS	1	EA	36
9K6219	458-107-803	RP4VM ESSENTIAL SW FOR UNITY=IB	1	EA	36
#N/A	M-PSM-SW-D3-001	PROSUPPORT W/MISSION CRITICAL-SOFTWARE	1	EA	36
#N/A	458-001-374	RP BASIC FOR UNITY 300/300F/350F =IC	1	EA	36
#N/A	M-PSM-SWE-004	PROSUPPORT W/MISSION CRITICAL-SOFTWARE	1	EA	36
#N/A	458-001-734	APPSYNC BASIC FOR UNITY 300F/350F =IC	1	EA	36
#N/A	458-111-473	APPSYNC BASIC FOR UNITY 300F/350F LIC=IC	1	EA	36
#N/A	M-PSM-SWE-005	PROSUPPORT W/MISSION CRITICAL-SOFTWARE	1	EA	36
#N/A	458-002-287	STORAGE M&R FOR UNITY=IC	1	EA	36
#N/A	458-113-338	STORAGE M&R FOR UNITY LIC=IC	1	EA	36
#N/A	M-PSM-SWE-005	PROSUPPORT W/MISSION CRITICAL-SOFTWARE	1	EA	36
9K6253	PSINST-ESRS	ZERO DOLLAR ESRS INSTALL	1	EA	
#N/A	PS-BAS-DDIB	IMPL DATA DOMAIN (BASE)	1	EA	
#N/A	DDOS_VE_61	DD3300 OPERATING SYSTEM=IA	1	EA	36
#N/A	DD33-16-1P1IN	DD3300 16TB 1PSU 1GBE BZ-CO	1	EA	36
#N/A	DD3300	SYSTEM DD3300 NFS CIFS	1	EA	36
#N/A	M-PS-HW-DD-E1	PROSUPPORT W/NBD HARDWARE SUPPORT	1	EA	36
#N/A	458-002-313	DD3300 APPLIANCE SW LICENSE	1	EA	36
#N/A	458-113-358	DD3300 SW LICENSE 1TB=CC	16	EA	36
#N/A	M-PS-SW-DD-E1	PROSUPPORT W/NBD SOFTWARE SUPPORT	1	EA	36
9K6253	PSINST-ESRS	ZERO DOLLAR ESRS INSTALL	1	EA	
#N/A	PS-BAS-DDVE	DD VE CONFIGURATION	1	EA	
#N/A	458-002-305	DD VE CHANNEL 4TB BASE=IA	1	EA	36
#N/A	M-PS-SW-DD-DD1	PROSUPPORT W/NBD-SOFTWARE SUPPORT	1	EA	36
#N/A	458-002-306	DD VE CHANNEL 1TB CAPACITY	1	EA	36
#N/A	458-113-352	DD VE CHANNEL 1TB CAPACITY LICENSE=CA	4	EA	36
#N/A	M-PS-SW-DD-DD1	PROSUPPORT W/NBD-SOFTWARE SUPPORT	1	EA	36
9F4257	PS-BAS-AVE	IMPLEMENTATION FOR AVE BASIC	1	EA	
#N/A	458-002-080	DPA SINGLE FEDERATED REPORTING SERVER	1	EA	36
9C5103	458-112-408	DPA SINGLE FED REPORTING SERVER=IA	1	EA	36
#N/A	M-PS-SW-DD-M1	PROSUPPORT W/NBD-SOFTWARE SUPPORT	1	EA	36
#N/A	458-002-366	DATA PROTECTION CENTRAL DM=CA	1	EA	36
#N/A	M-PS-SW-DD-M1	PROSUPPORT W/NBD-SOFTWARE SUPPORT	1	EA	36
#N/A	458-001-192	DPS FOR VMWARE	1	EA	36
#N/A	458-112-058	DPS FOR VMWARE AVAMAR H ENABLER=IA	1	EA	36
9C5185	458-109-874	DPS FOR VMWARE 2TB AVE ENABLER=CA	2	EA	36
#N/A	458-113-086	NW 9.2- DPS CAP ENABLER=CA	1	EA	36
#N/A	458-112-133	VREALIZE DP EXTENSION 4.0=IA	1	EA	36
#N/A	458-113-291	CLOUDBOOST AWS DPS ENABLER=CA	1	EA	36
9E4373	458-110-832	DPS FOR VMWARE SOCKETS=IA	5	EA	36
#N/A	458-107-804	DPS FOR VMWARE RP4VM ENABLER=IB	75	EA	36
9C5548	458-110-835	DPS FOR VMWARE DPSEARCH ENABLER=CA	1	EA	36
9C4911	458-110-834	DPS FOR VMWARE DPA ENABLER=C=CB	1	EA	36
#N/A	M-PS-SW-DD-M1	PROSUPPORT W/NBD-SOFTWARE SUPPORT	1	EA	36