



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](http://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](http://WVPurchasing.gov) with any other vendor responses to this solicitation submitted to the Purchasing Division in hard copy format.

Header 1

List View

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

Procurement Folder: 705032

SO Doc Code: CRFQ

Procurement Type: Central Contract - Fixed Amt

SO Dept: 0506

Vendor ID: VS000009021 

SO Doc ID: BFH2000000003

Legal Name: ONSOLVE INTERMEDIATE HOLDING COMPANY


Published Date: 4/15/20

Alias/DBA:

Close Date: 4/23/20



Total Bid: \$175,010.00

Close Time: 13:30

Response Date: 04/23/2020 

Status: Closed

Response Time: 11:35

Solicitation Description: Addendum No.02 - RFQ for  
Emergency Notification System   


Total of Header Attachments: 1

Total of All Attachments: 1



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

**State of West Virginia  
 Solicitation Response**

**Proc Folder :** 705032

**Solicitation Description :** Addendum No.02 - RFQ for Emergency Notification System

**Proc Type :** Central Contract - Fixed Amt

Date issued	Solicitation Closes	Solicitation Response	Version
	2020-04-23 13:30:00	SR 0506 ESR04232000000006203	1

<b>VENDOR</b>
VS0000009021 ONSOLVE INTERMEDIATE HOLDING COMPANY

**Solicitation Number:** CRFQ 0506 BPH2000000003

**Total Bid :** \$175,010.00      **Response Date:** 2020-04-23      **Response Time:** 11:35:16

**Comments:**

**FOR INFORMATION CONTACT THE BUYER**  
 Brittany E Ingraham  
 (304) 558-0067  
 brittany.e.ingraham@wv.gov

<b>Signature on File</b>	<b>FEIN #</b>	<b>DATE</b>
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All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	Emergency Notification System - Year 1/Deliverable 1				\$56,502.50

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

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

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

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

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	Emergency Notification System - Year 1/Deliverable 4				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

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

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	Emergency Notification System - Year 1/Deliverable 6				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
7	Emergency Notification System - Year 1/Deliverable 7				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
8	Emergency Notification System - Year 2/Deliverable 1				\$39,502.50

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

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

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
10	Emergency Notification System - Year 2/Deliverable 3				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
11	Emergency Notification System - Year 2/Deliverable 4				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
12	Emergency Notification System - Year 3/Deliverable 1				\$39,502.50

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
13	Emergency Notification System - Year 3/Deliverable 2				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

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

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
15	Emergency Notification System - Year 3/Deliverable 4				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.



Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
16	Emergency Notification System - Year 4/Deliverable 1				\$39,502.50

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
17	Emergency Notification System - Year 4/Deliverable 2				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
18	Emergency Notification System - Year 4/Deliverable 3				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
19	Emergency Notification System - Year 4/Deliverable 4				\$0.00

Comm Code	Manufacturer	Specification	Model #
93131802			

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

**Comments:** Please refer to OnSolve's pricing proposal included with our response documents.



State of West Virginia  
Dept. of Health and Human Resources  
CRFQ BPH2000000003  
Public Health Emergency Notification System

April 16, 2020

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**John Abbruzzese**  
**Regional Sales Manager**  
E: [john.abbruzzese@onsolve.com](mailto:john.abbruzzese@onsolve.com)

## Cover Letter

April 16, 2020

State of West Virginia  
Department of Administration  
2019 Washington Street East  
Charleston, WV 25305-0130  
Attention: Brittany Ingraham

Dear Ms. Ingraham,

OnSolve is pleased to present our response to the West Virginia Department of Health and Human Resources (DHHR), Bureau of Public Health (BPH), Center for Threat Preparedness (CTP) Request for Quote – Public Health Emergency Notification System. After a careful review of the scope of services and requirements, we feel our MIR3 solution offers the most desirable option due to its robust features and functionality.

OnSolve has been providing high-speed, high-performance, reliable Software-as-a-Service (SaaS) solutions to organizations, such as the CTP, for **over 20 years**. We have the financial resources, engineering capabilities, support structure and knowledge to support CTP with the most flexible emergency mass notification solution available.

OnSolve is proud to provide mass notification systems to nearly 40,000 customers worldwide in a wide variety of industries for both emergency and non-emergency notifications. Our proven track record of successful implementation and delivery of cloud-based emergency notifications offers unique insight into the needs and potential scenarios that CTP may face. With our experience in the government sector, CTP can be assured MIR3 will offer the most comprehensive choice for time-sensitive and flexible alerting, as well as a vendor who can support your varied needs.

OnSolve believes in developing true partnership with our customers to foster trust and confidence. Our customer service, reliability, and ease of use have bolstered this relationship. We truly understand the alerting needs of CTP and are confident our cloud-based MIR3 Software-as-a-Service (SaaS) platform backed by OnSolve's powerful, private infrastructure can meet and exceeds CTP's requirements.

We are confident our proposal will provide the information to make the best determination for your business needs. We look forward to continuing our collaborative partnership and would welcome the opportunity to provide a demonstration or answer further questions you may have about the MIR3 platform.

Respectfully submitted,






John Abbruzzese  
Regional Sales Manager  
**OnSolve, LLC**  
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## Executive Summary

CTP is seeking an emergency notification system for its 55 local health department (LHD) agencies, specific DHHR Offices, and other partners. You have identified several objectives:




-  Automated notifications
-  Deliver messages through various mediums
-  24/7/365 availability

Beginning in 1998, OnSolve, implemented its critical emergency notification system giving organizations like CTP, the ability to deliver mass notifications to employees and other stakeholders reliably and efficiently. OnSolve has invested millions of dollars into our triple-redundant, fully monitored and secure infrastructure, which powers our notification solutions.

OnSolve is familiar with the potential challenges CTP faces and with this knowledge, we stand ready to support your mass notification initiatives to protect the occupants.

OnSolve is a full-service mass notification solution provider, and pledges to work with CTP to educate users on the benefits and usefulness of the MIR3 mass notification solution.

### OnSolve pledges to deliver:

-  Automated notifications
-  Multi-modal messages
-  High availability, cloud-based platform

### Automated Notifications

CTP needs an emergency notification solution that can offer deliver automated notifications of public health and medical emergency callouts, as well as other critical information. MIR3 offers the ability to provide both emergency and non-emergency notifications.

CTP users simply create the message within MIR3's user interface and with a few clicks of the mouse, your critical messages are delivered using OnSolve's powerful infrastructure.

### Multi-modal Messages

CTP requires a solution that can offer email, text messaging, and other related digital communications. MIR3 is capable of voice, text, email, TTY and pager messaging, as well as desktop alerting. CTP can use cascade notifications for managing critical situations. Our two-way messaging can offer message recipients the ability to respond by voice or written message in real-time.

CTP users can determine the modes of communication that each notification uses, as well as tailor messages to the modes chosen to best communicate using each mode. By simplifying the notification process, MIR's user-friendly interface is efficient and reliable for CTP to ensure critical messages are created and sent when time is crucial.

### Software-as-a-Service Platform

CTP never knows when an emergency incident will occur and need an emergency notification system that is available at any time. Because the MIR3 solution is delivered as a Software-as-a-Service (SaaS) platform, it is available 24/7/365 by accessing our secure URL using any computer or wireless device with a high-speed internet connection.

CTP can rely on our cloud-based platform to offer high-availability even under the most critical, time-sensitive situations. Additionally, we offer 24/7/365 customer support ensuring no matter the circumstance the MIR3 solution is there for your emergency notification needs.

### **Conclusion**

OnSolve provides high-speed mass notification platform to over 40,000 global clients, each one is unique and different based on scope, operational footprint, and needs. We pride ourselves on Regional Sales Managers and Account Executives who truly understand each client and their specific needs. For over 20 years, OnSolve has maintained its dedication to focusing on high-speed mass notifications with large-scale deployments and implementations.

## Pricing Forms

OnSolve is pleased to present our pricing proposal for CTP's consideration.





**Prepared for:**

Brittany Ingraham  
Buyer  
West Virginia Department of Health and Human Resources  
1900 Kanawha Blvd E  
Charleston, WV 25305-0009  
(304) 558-0067  
brittany.e.ingraham@wv.gov

**Prepared by:**

John Abbruzzese  
Regional Sales Manager  
OnSolve, LLC  
780 West Granada Blvd  
Ormond Beach, FL 32174  
(386) 213-4029  
john.abbruzzese@onsolve.com

**Payment Terms:** Net 30 Days

**Subscription Fees**

Item/Description	QTY	Annual Price	Term	Ext. Total
MIR3 Professional Edition w/ 250 Users	1	\$8,000.00	1	\$8,000.00
Additional Users	19,750	\$2.65	1	\$52,337.50
Subdivisions (unlimited)	1	\$3,000.00	1	\$3,000.00
On-Call Scheduling	1	\$2,500.00	1	\$2,500.00
<b>Subscription Subtotal</b>				<b>\$65,837.50</b>
<b>Discount - Government</b>			<b>40%</b>	<b>-\$26,335.00</b>
<b>Subscription Total</b>				<b>\$39,502.50</b>

Total Number of Users 20,000  
Average Price Per User, Per Year \$1.98

**Non-Recurring Fees**

Item/Description	Total
Assigned Project Manager (PM) with up to 32 hours of structured implementation support over 4 months; Up to 10 hours of remote instructor-led User training within 9 months (includes recordings of the trainings with access for 90 days from the date of recording)	\$7,000.00
Onsite Training - 2 days, 1 trip inclusive of travel expenses	\$10,000.00
<b>Non-Recurring Total</b>	<b>\$17,000.00</b>

**Order Total \$56,502.50**

Year 1 Subscription Fees + Non-Recurring Service Fees \$56,502.50  
Optional - Year's 2-4 Subscription Fees each \$39,502.50

- Includes \$10,000 per year in annual Transaction Fee credit; credit is equivalent to approximately 500,000 domestic calls minutes or 1M domestic SMS per year. Overage, if any, will be billing on a calendar quarterly basis at the rate on the following page.
- "Users" are the collective term for Administrators, Initiators and Recipients, as determined by client.
- Includes standard 24/7 helpdesk support. Helpdesk support does not include OnSolve staff performing administrative functions on the Service. Administrative functions can be covered under an SOW for Managed Service based on a monthly or annual number of hours.



- Importing existing data from the West Virginia Public Health Alert System (WVPHAlert), the incumbent emergency notification system (all call groups from each user location in counties and State) will require an SOW for Professional Services.

**STANDARD TRANSACTION FEE PRICE LIST**

**Transaction Fees** (in excess of the annual credit) will be billed on a calendar quarterly basis at the rates specified on below. Unused Annual Transaction Fee Credit do not rollover year to year.

**Annual Transaction Fee Credit Included: \$10,000.00**  
**Credit is equivalent to approximate # of domestic calls/SMS messages: 500,000**

- Telephony (outbound/inbound) Notifications will be billed based on the Recipient destination. Inbound Recipient toll-free numbers outside North America are only available to customers hosted in the US datacenter. All Telephony rates are per minute billed in 6-second increments with a 30-second minimum. Call Bridging is billed per minute, per line based on the connected destinations.
- Short Message Service (SMS) Notifications will be billed per message based on the destination of the Recipient. SMS charges are per SMS message; lengthy notifications (approximately 70 (with special characters) to 130 characters – may vary by carrier/country) that are broken into multiple SMS messages will incur multiple charges, one charge for each message; responses via SMS will also incur charges, one charge for each response.
- Email, text pager, and Mobile App Notifications will be sent at no charge.
- Pricing for international transaction fees subject to change with 30 days written notice to customer.

<b>Telephony (Outbound) Transaction Fees</b>	<b>Price</b>
Telephony (per minute) US	\$0.02
Telephony (per minute) Canada	\$0.02
Telephony (per minute) UK	\$0.02
Telephony (per minute) UK Mobile	\$0.04
Telephony (per minute) All Other Countries	Request List

<b>Non-Telephony Transaction Fees</b>	<b>Price</b>
SMS (per message) US	\$0.01
SMS (per message) Canada	\$0.03
SMS (per message) UK	\$0.05
Facsimile (per page) US	\$0.20
Facsimile (per page) Canada	\$0.30
Facsimile (per page) All Other Countries	\$1.10
SMS (per message) All Other Countries	Request List
Email	Free
*Mobile App (Push Notifications)	Free
*Desktop Alerting	Free

*\*If applicable to the configuration purchased.*

**SERVICE DESCRIPTION****MIR3 Professional Edition**

- 250 Users (Administrators, Initiators, Recipients)
- Unlimited Divisions with Role Manager/Access Control
- DataSync Flat File or LDAP (Data Synchronization utility for automated/scheduled data source file updates; additional fees apply for multiple data source/feeds)
- Access to Global Shared Telephony Port
- Recorded Voice and Text-to-Speech with Choice of 2 Standard Text-To-Speech Languages US&UK English, French, German, Spanish, Dutch, Japanese, Arabic, Mandarin Chinese, Brazilian Portuguese, Russian, Swedish, Korean, Italian, Turkish (additional languages available, setup fees may apply)
- Quick Launch Page (Easily launch simple Notifications from a single page)
- OnSolve MIR3 Mobile App (iPhone/Android, Initiator and Recipient)
- GIS with NOAA (US) Weather Alerts
- Multi-Modal Notification Initiation (web, email, phone)
- First Responder/Call Out Notifications/Voice Bulletin Board
- Surveys/Follow-on Response Options, including recorded voice Response
- Cascade Notification (Responses to Initiate other existing Notifications)
- Unlimited Notification Templates
- Initiator Forms (Simple Placeholders requested at Initiation to alter the Notification)
- HTML Email Support (for Corporate, Departmental or Situational branding of Email Notifications)
- Email Source "From Address" Override (for masking email address originating domain source)
- Call Bridging (Connect Recipients to conference calls or live operators)
- Unlimited Static and Dynamic Groups
- Real-Time Reporting and Audit Logs
- SDK (inWebServices API and WSDL, inConsole Command Line Interface)
- Access to Unlimited Web-based Remote Training
- Up to 2 Seats Annually at MIR3 Customer Experience Training Program - 3-Day Administrator and Initiator Certification Training at OnSolve Facility
- Standard UI Branding (logo placement) & URL <https://YourCompanyName.onsolve.com>

## Qualifications

3. **QUALIFICATIONS:** Vendor, or Vendor's staff if requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:
  - 3.1. The successful vendor must have three (3) years minimum experience with rapid notification as evidenced by website information, business license, and/or other proof. Documentation demonstrating the Vendor meets this experience requirement should be included with the bid. This information will be required prior to award.

OnSolve provides businesses, states, cities, counties, and agencies like CTP with affordable notification solutions capable of reaching millions of people in only a few minutes. For more than 20 years, OnSolve has offered cloud-based Software as a Service (SaaS) solutions that enables officials to communicate time-sensitive, personalized messages via voice, email, text and desktop messages. OnSolve is the largest provider of mass notification solutions throughout the United States and Canada.

OnSolve has innovative processes that make mass notifications more accurate, efficient and cost effective. Our track record of growth is evidence of our financial strength to support the management and deployment of the CTP mass notification project. Highlights of our history that have made OnSolve uniquely positioned to address the needs of clients today and tomorrow include:

- 🕒 1998: OnSolve implemented our critical emergency notification system giving organizations the ability to deliver mass notifications.
- 🕒 2015: OnSolve, formerly known as Emergency Communications Network (ECN), was purchased by Veritas Capital, a leading, multi-billion-dollar private equity firm that invests in technology companies providing critical solutions to government and commercial clients worldwide.
- 🕒 2016: As part of our sustained focus to leverage state-of-the-art technology to drive enhanced market solutions, OnSolve acquired MIR3 Inc., a global provider of mass notifications to more than 80 of the Fortune 100 companies.
- 🕒 2017: OnSolve acquired Send Word Now, another global leader in enterprise notifications solutions.

Regardless of a customer's size or mission, OnSolve offers tailored solutions with features that set our clients above the rest. We serve all levels of government, utilities, manufacturing, healthcare, retail and many other industries. OnSolve's provides multiple, reliable mass notification solutions to a variety of clients such as:

- 🕒 **Government:** Government agencies of all types and sizes can play a role ensuring the safety and security of people and property through both natural and man-made emergencies.
- 🕒 **Small & Medium Business:** Small and medium businesses require advanced communications tools that customers, partners, and employees to ensure business continuity that leads to profitability.
- 🕒 **Enterprise Organizations:** Complex, global companies with highly mobile workforces must ensure every stakeholder has the information needed to make effective, timely decisions about issues large and small.

## Mandatory Requirements

### 4. MANDATORY REQUIREMENTS:

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

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

MIR3 offers several methods to import and manage notification recipient user data. For each method, a security role may be assigned granting contact(s) credentials as a system user, as well. In this way, each county and the CTP may have users given access to update their data as desired, with no access to affect user data managed by others.

MIR3 can import data from individual source files (e.g., HRIS, Active Directory; Vendor Info; etc.) in a number of ways. The most common approach for ongoing user imports is the proposed DataSync utility, in which CTP will export the data from its source file and send the file to MIR3's data synchronization utility, DataSync, for import on a scheduled, automated basis. DataSync supports synchronization of user information via a flat file from a customer's HRIS system or using a direct LDAP connection as input. DataSync determines which users are new and adds them, which are no longer there and removes them, and updates all users who have data changes and/or group membership changes. DataSync is run on a scheduled basis determined by the customer, often daily or weekly (but possibly more or less frequently). CTP may also use the manual upload and import, where individual files may each be used to create or update records for users in the system. Imports from multiple files may update (and merge data into) the same user record, as needed. The API may also be utilized to automated data updates directly from the source application.

**4.1.2** The service selected must meet the following criteria: Must comply with all applicable Public Health Information Network (PHIN) certification requirements as articulated in the CDC Partner Communication and Alerting (PCA) Guide. The PCA Guide can be found at: [https://www.cdc.gov/phinf/resources/guides/documents/PCA\\_Guide\\_v1\\_3.pdf](https://www.cdc.gov/phinf/resources/guides/documents/PCA_Guide_v1_3.pdf)

OnSolve understands.

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

different geographical locations.

MIR3 maintains high availability through ongoing analysis and capacity planning, adding hardware and services, as needed, based on both anticipated usage and customer growth. In general, the MIR3 platform provider has a policy to provide capacity that could support a high level of usage by the majority of customers, potentially during a major regional event, to ensure that service levels are met at all times.

OnSolve's redundant configuration allows for rollover capabilities to avoid any potential downtime and provides continuous availability for our clients. Maintenance and new releases do not impact use of the platform, as we guarantee 99.99% uptime and availability.

MIR3 is built on a high-availability architecture that includes being housed in multiple data centers that are in separate locations ensuring the platform is fully redundant. Data security is a top priority with people and systems that perform some preliminary, scripted recoveries – and can also alert MIR3 expert administrators / database administrators (DBAs), resources who are always on call. This is in addition to the “always-on” NOC. Further information can be provided to organizations with a mutually executed NDA.

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

The price of the MIR3 proposed software subscription is based on the subscription level selected (from one of on three tiers), which determines the features that will be available to CTP, as well as on the count of users included with the subscription. The provided proposal is for the MIR3 Professional edition and includes the features identified as needed by CTP's requirements in this document. A total of 20,000 users may be added to the solution as contacts under this proposal, with any or all of them also able to be granted any level of security role as a system user. This count will cover the requirement stated of 16,500 and provides the most favorable pricing based on our standard user count packages. The subscription also provides \$10,000 per year in annual Transaction Fee credit, where transaction fees cover costs incurred by OnSolve for voice and SMS messaging; this credit is equivalent to approximately 500,000 domestic phone call minutes or 1M domestic SMS messages per year. Overage beyond this credit, if any, will be billing on a calendar quarterly basis at the rate outlined in the included pricing proposal.

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

MIR3 includes a manual import capability where CTP users can upload a CSV file, which might be exported from the incumbent solution, a file created from any internal system, or a file manually using Excel. Each CSV file can be used to populate/update CTP user profiles with contact attributes, including devices, device order, role, group membership, etc. Existing MIR3 user data may also be exported to a CSV file, that may then be edited and manually imported to apply updates. MIR3 also provides a group import capability, where a file containing a list of email addresses or values matching what is stored in the Employee ID field in MIR3 contact can be imported to define the membership of a group within MIR3. Should CTP request that OnSolve directly complete the import of existing data (all call groups from each user location in counties and State) from the West Virginia Public Health Alert System (WVPHAlert), a SOW for Professional Services will be required.

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

MIR3 employs a skilled team of project managers and implementation specialists who assume responsibility for the successful implementation and deployment of all client notification systems. As an integral part of the on-boarding process, in collaboration with CTP, the Project Manager will define a specific project implementation plan that will meet your needs and align with your implementation resources, as well as ensure CTP's thirty (30) day time frame is accomplished.

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

CTP retains ownership of its data. Access to the data in the MIR3 system continues throughout the life of your subscription. Data can be exported as needed, including upon termination of your MIR3 subscription. Standard data exports are in CSV file format.

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

MIR3 manages security based upon ISO 27001. Our triple-redundant geographically dispersed data centers offer secure transmission of messages ensuring the availability of the solution. Alert initiation is accomplished with a secure HTTPS internet connection using the web interface, using our dial-in DTMF touch-tone phone initiation, the OnSolve mobile app, and via an API call which is also over the Internet using a secure HTTPS connection.

Notification reports can be retrieved using either the web interface or via an API call, both are over a secure HTTPS connection.

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

- 4.1.9.1** Must have the capability to send notifications rapidly via multiple



communication mediums utilizing assigned roles; (Must be able to use both “land lines” and mobile phone, fax, instant messaging, and Simple Mail Transmission Protocol (SMTP) Short Message Service (SMS) messaging such as email, alphanumeric papers and other wireless devices.)

MIR3 can support alerting any phone that can be directly dialed, including landlines, mobile, fax, email and text messaging. Additionally, options exist for desktop alerting and pagers. Each CTP alert recipient can have up to 99 devices, with multiple devices of any type in any combination supported. Each message that is sent may be targeted to one, some or all of these types of devices, and may be contacted all at once or in any order desired by CTP.

- 4192** Must be capable of delivering customized messages, both the content and the delivery mechanism, to each individual, and in the case of voice messages using a text-to-speech engine to dynamically create the messages.

CTP users can create customized messages for the appropriate mode of delivery, for example with a short, concise version of a message to SMS text messages and a much longer, more detailed message to emails. MIR3 supports the delivery of text-to-speech notifications that uses precise text-to-speech technology. CTP may input the content of the message body, preview the text-to-speech message content before hitting 'send' sending and to deliver voice notifications. Additionally, an CTP user, with the appropriate permissions, can 'teach' the text-to-speech engine to pronounce words, acronyms and phrases by providing the correct phonetic pronunciation.

- 4193** Must have the ability to send the notification to one device and if there is no answer within a specified timeframe, as determined by the type of incident, send the notification to the next device listed in the user's profile. This includes being able to select which phone device the message is being sent to (i.e. cell phone vs. work phone vs. home phone). This process must continue until contact attempts for all listed devices defined in the user's profile are exhausted. The message initiator must have the ability to require the system to continue contact attempts until contact is successful.

Each message may be delivered to devices in an ordered fashion, such as all work emails and SMS messages first, work phones second and mobile phones third, etc., and may designate that devices be contacted a second/third/etc. time after contacts to each full set of endpoint devices is completed. If appropriate you may allow your users to define a preferred order in which their devices should be contacted, and each message may either specify the specific order or may designate that each user be contacted based on their own preferred order.

- 4194** Must allow the user's profile to contain delivery device preference order based on at least two self-defined timeframes; (Example: Call pager first on Monday – Friday, 8:00 A.M. – 5:00 P.M. EST and home phone first at all other times. Call mobile phone second at all times.)

Each contact may be given access to maintain their own preferences, including which devices should be contacted and in what order. Different preferences can be set up as desired based on the day of the week and the time of the day. Each notification template may choose to honor all recipients' priorities or to override the priority for some/all of the endpoint device types available. CTP users can

- Honor recipient preferences for those device types
- Override certain device types, such as turn 'off' the usage of Work Phone and/or prioritize Mobile Phone to be contacted first
- Override all device types and provide the exact prioritization and order to be used for every recipient

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

MIR3 supports a variety of escalation options for various kinds of alerts, depending on the situation. Callout notifications may be configured with escalation tiers that sets the order for contacting resources and duration for the system to remain within the tier before escalating to the next tier.

CTP users also can identify Alternates, a form of personal escalation for each contact to a designated alternate, in a desired order to be contacted, when the original contact cannot be reached.

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

The MIR3 system supports the creation of an unlimited number of Groups (and sub-groups), and the criteria for Group membership can fully leverage the fields (i.e. roles, agency worked for, geographic location or political jurisdiction) CTP populates in a user's profile. Ad hoc groups can be created as needed at any time, including while building a message. If needed, users can also be selected to receive a specific message through a full interactive search and selection capability without first defining a group.

The MIR3 solution supports the creation of Groups as follows:

#### **Static Group**

Static Groups are comprised of defined users that must be modified manually. The addition/removal of recipients in a Static group requires a manual adjustment in the UI or to the group assignment in the source upload CSV file prior for its next upload to the MIR3 system.

#### **Dynamic Group**

Membership in a Dynamic group is determined by CTP's defined criteria. Each time a notification is launched with a dynamic group on distribution, recipients are populated based on the information contained in their respective profiles at that moment. Once a dynamic group is created, the group is dynamically populated each time it is referenced, with the members who currently meet the query criteria. When user profiles are added to or deleted from the solution, or their data is changed, they are automatically added or removed from dynamic groups based on their current information.

#### **On-call Schedules**

Schedule Groups are created by defining a recurring or non-recurring work schedule patterns for users. Shifts are defined for a specific work schedule, and users are included in a 'tiered' order of how they should be contacted. Messages sent to a Schedule are sent to those in the Schedule designated to be contacted at the then-current date and time, in the tiered order specified by the Schedule.

**419.7** Must have the capacity to notify 'subgroups' (i.e. group(s) within a group.)

Yes. MIR3 supports the ability to notify sub-groups within groups. Groups may also be created that include other groups, providing a 'sub-group' capability. Unlimited levels of nesting are supported.

- 4198** Must have the capacity to select individuals even if they are not in a group or subgroup.

Yes. MIR3 allows CTP users to send alerts to individuals. CTP users can interactively search based on any attribute stored for a contact and can use a search-within-search process to further refine each search, as required. Similarly, a dynamic group may be built based on a search, using all contact attributes with AND/OR/NOT logic and nested searches as needed.

- 4199** Must have capability of multiple administrators; three hundred fifty (350) at a minimum.

MIR3 offers a robust role-based security system, where CTP may define as many different roles at all levels as required and assign each role to as many users as needed with no limitation.

- 419.10** System must allow for agency control over the number and type of call groups, when necessary.

The MIR3 solution is a roles and permissions based system. All functionality may be controlled by a role, through a combination of general permissions (such as to log in to the web interface) and data specific permissions, such as whether a user will have any access to view/edit/add/delete groups based on their division permission(s) to view users.

- 419.11** Must initiate a broadcast directly from another application through an Application Program Interface (API) protocol solution (supplied by the successful vendor) so that contact data can be maintained in another system and broadcasts can be initiated directly from another application. This process should be provided through a web-services API using a standards-based SOA (service oriented architecture). In addition to initiating the broadcast, the API should also handle cancellation and status of the notification.

MIR3 can receive information about alerts from other applications and system integrations to trigger CTP notification messages in multiple ways. MIR3 offers a SOAP web services API, exposing approximately 90-95% of the full product functionality provided by the full product and includes all capabilities needed for an external application to build, send, monitor and review the history of all notifications.

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

CTP users can easily create or launch notifications by logging into the MIR3 platform or the mobile app. Any authorized CTP user can manually initiate a notification to their desired recipients or groups.

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

Every alert that is sent has a full Notification Report created which contains the full history of that alert's activity. Notification Report data for each notification is updated in near real-time while a notification is active, and the report provides a full history to the current point in time for all CTP contacts and responses that have occurred. Each attempt to contact a device has a status logged, indicating the outcome of that attempt. Explicit confirmations are received from recipients when response options are included, and a recipient responds to indicate they received the message (and possibly more if multiple response options are used). Some types of devices, such as SMS and phones, receive a status that can be translated to a 'receipt' status (any answered status for a phone call, SMS Delivered for SMS messages) but other endpoint types such as email do not include a receipt confirmation when delivered.

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

MIR3 offers a toll-free dial-in retrieval capability that allows any recipient to dial in, 'retrieve' and respond to their message. This is available for notifications configured to contact devices directly, and it is available as the way Bulletin Board messages can be heard.

The MIR3 solution allows CTP users to send messages that require responses. Moreover, the messages may contain CTP-designated wording for each response option. If a simple acknowledgment is required, one response with text of 'Acknowledged' or something similar often is used. On a voice call the recipient will respond by selecting from the multiple response options using a phone keypad, from the mobile app by touching a response from those offered, from SMS and email messages by touching a hyperlink for the appropriate response or by texting/emailing back the number of the chosen response.

MIR3 provides the ability to accept thousands of inbound calls We offer a robust SLA, including voice messaging.

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

Notification Report data for each notification is updated in near real-time while a notification is active, and the report provides a full history to the current point in time for all CTP contacts and responses that have occurred. Once a notification is complete, the report becomes the fully cumulative report of that notification's activity. CTP users who initiate a notification will receive an emailed notification report when a notification is completed.

Notification history can be exported to a CSV file for one or more Notification Reports and will provide the full history of all individuals contacted with timestamps and responses indicating the device used and the time received. Currently, the name of any Group or Schedule used to choose the individual recipients is not stored or available for report selection or grouping.

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

MIR3 offers the ability for a notification to be scheduled to be sent at a specific time, including a recurring basis.

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

CTP can use the Role Manager functionality to define as many different security roles as required, letting CTP administrators match the level of permissions for each end user based on specific responsibilities and needs. MIR3 can provide an approval process using the cascade option. The initial user will build the main notification that needs approval to be sent and will also build a second notification that will be sent to designated approvers asking for permission for the main notification to be sent. This would be done by using response options such as Yes and No and setting up the Yes option to automatically trigger the notification needing approval with the cascade option. If no approver chooses Yes (i.e. all choose No or never respond), then the main notification is not sent.

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

Our robust role manager lets administrators match the level of permissions for each end user to their specific responsibilities and needs. Administrators have the flexibility to develop customized roles matched to end users' business duties and assign those roles appropriately. When used with MIR3's division structure, our custom role capabilities are unparalleled in the industry for flexibility and control as to who can do what with which data sets. The system administrators can manage all other roles in the system without intervention from MIR3.

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

MIR3 does not have any cost specifically for sending notification messages. Each phone call or SMS text message sent using MIR3 incurs a transaction fee. This proposal includes an annual \$10,000 per year in annual Transaction Fee credit; this credit is equivalent to approximately 500,000 domestic calls minutes or 1M domestic SMS per year. Overage, if any, will be billing on a calendar quarterly basis at the rate on the following page. To assist in understanding these fees, MIR3 provides a usage report export, which provides information on all the device contacts made that may result in a transaction fee cost for a selected period. As will all reporting, each user who is granted permission to view this report through the

standard web interface will only see the history of notification alerts that their security role grants to them. Each row for a contact to a device contains the needed information to calculate that transaction fee for that contact attempt, and contains information on the notification's title, the division where it was assigned and the initiator's name.

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

MIR3 provides the ability to configure send an unlimited notification at the same time by multiple CTP users. Recipients can also receive an unlimited notification at the same time, as needed.

**4.19.21** Must have the ability to provide login audit tracking.

The MIR3 system provides an audit trail, including logins, within the web interface for administrators with access, showing each the activity dealing with the users and data to which they have access. The audit trail captures information on data updates and key actions, including who performed the update or action, a timestamp, and the specific data record involved. CTP administrators can search the audit trail based on action and timeframe and export all data or a search results set of data to a CSV file for further review.

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

Access to contact data is controlled through the permissions granted to create, update, delete and/or view users in specific Divisions. Additional options also exist to mark specific address types and/or specific devices in user profiles as private, and a user without that permission in their role cannot see them.

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

The MIR3 system's Custom ANI (Automated Number Identifier) may be set on a division-by-division basis, effectively allowing each location or type of message to possess its own unique caller ID number. Using the custom ANI will increase the likelihood that a Recipient will listen to a voice notification because they will recognize the number on their contact device.

**4.19.24** Must have the ability to override call-blocking.

MIR3 does not offer call-blocking.

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

Voice notifications can be delivered to voicemail. CTP may also designate whether the system should leave the full notification message or just the notification retrieval callback number on the voice message. CTP users can also choose the option to not leave a voicemail message, or even create a separate voicemail message from the original notification message.

**4.1.10** Support for the successful bidder's services must be available 24 hours a day,

7 days a week, 365 days a year, including holidays, (24/7/365) via telephone and the Internet.

MIR3 customer and technical support is available globally 24x7x365 via telephone or email.

- 4.1.11** Due to the emergency use of this system, routine maintenance, system upgrades or emergency repairs for system degradation or failure must be managed in as expeditious a process as possible. Routine maintenance and system upgrades must be done outside the hours of 6:00am – 6:00pm EST Monday through Friday (unless system maintenance can be completed in a phased approach without loss of system integrity). Agency must be notified in advance of routine maintenance and system upgrades. Emergency interventions must be initiated immediately (within one hour) upon discovery of a problem and every effort must be made to complete repairs or provide appropriate temporary system-wide solutions until permanent repairs can be completed, as quickly as possible with a minimum of system disruption/downtime. Problem resolution must be applied when the resolution/solution is found and not wait to be applied during a scheduled routine update.

MIR3 completes three to four releases a year, depending on the scope of each release. All customers of the SaaS solution receive the new version of MIR3 during each standard release. Release plans are created with detailed step by step operations including rollback procedures. Releases are applied during the standard maintenance window, currently scheduled for the first (1st) and third (3rd) Saturday of each month between 5:00 PM to 5:00 AM Pacific Time. During the update, MIR3 performs a switchover to a secondary site to provide continuous access to the system while the upgrade is applied, and at completion a switchback to the now-upgraded primary system is done. Release notes and updated user guides document the changes included in a release.

Critical system patches applied as soon as possible, high severity patches are installed as soon as possible if it does not interrupt the production system as a whole and all other patches in the next available maintenance window.

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

During implementation, CTP administrators work closely with your assigned Project Manager who guides you through and explains the configuration and usage for MIR3 needed to meet your use cases. Administrators and initiators are encouraged to attend live webinar sessions designed specifically for them and the features they will utilize, as well as to take advantage of the video recorded training clips as they need information on a specific feature or action. Most administrators spend about 3 to 4 hours in training sessions of these types. The MIR3 Certification Training offers a more in-depth and hands-on training session, in small classes and with peers from other organizations.

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

Custom training can be provided with materials and/or on-site training for an additional fee under a separate Statement of Work. Travel will be arranged and agreed upon by CTP and OnSolve to accommodate COVID-19 shelter in place restrictions.

OnSolve can provide pricing for a Statement of Work specific to in-house training for the MIR3 solution. Please note that live, online training is provided at no additional charge. Furthermore, OnSolve offers free online, weekly, live, instructor-led generic training sessions at scheduled times. We also provide more than 20 pre-recorded training sessions directly within the MIR3 user interface that can be accessed at any time without OnSolve intervention. There is no cost for viewing these pre-recorded training sessions. Custom training can be provided with materials and/or on-site training for an additional fee under a separate Statement of Work. Travel will be arranged and agreed upon by CTP and OnSolve to accommodate COVID-19 shelter in place restrictions.

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

OnSolve will provide training on updates or changes to the system. This training may occur through online webinars, training videos, and written documentation. OnSolve offers free online, weekly, live, instructor-led generic training sessions at scheduled times.

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

Yes. CTP will receive access to all available training as part of your contract, as described above, and your Project Manager will provide recommendations on specific webinars, video pre-recorded training, etc. based on your usage of the MIR3 solution.

#### **4.1.13** WVDHHR's Responsibilities To Contract:

**4.1.13.1** The Center for Threat Preparedness will collaborate with the vendor and will serve as the point of contact. Additionally, they will:

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

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

**4.1.13.1.3** Provide location for training, with computers for use.

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



**4.1.13.15** Provide drills/exercises to test system's performance.

OnSolve understands WVDHHR's responsibilities as described.

**4.1.14** Deliverables, Scope of Work and Timeframe:

**4.1.14.1** YEAR 1

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

Upon receipt of a signed agreement, OnSolve will provision an account for CTP and assign a Project Manager who will guide you through the implementation process. The Project Manager will contact CTP to set up a kickoff meeting for the project at the earliest convenient time for all who will be involved. During this meeting, OnSolve will discuss CTP's use cases and goals for implementation and will adjust the standard project plan template accordingly. The next meetings, which will be working sessions on various aspects of implementation, will be scheduled during or shortly after this kickoff. OnSolve provides a SaaS solution, requiring no onsite components or support, and therefore these meetings are conducted via webinar sessions. Should CTP require onsite meetings, these can be provided under a separate SOW for an additional fee.

**4.1.14.1.2** Deliverable 2: By end of Week 4 of the first year of the contract: Vendor will develop/implement State and Local Health components of Notification System. This will include development of capacity to push messages/information to State and Local Health-developed call groups as well as internal and overall message management capability. This also includes the provision of the vendor-supplied API Protocol, described under Section 4.1.9.11.

As soon as the new account is provisioned by OnSolve, all features and capabilities are fully available to CTP. This also includes the API, which can be used immediately.

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

Normally one of the first working sessions following the kickoff meeting is to discuss and begin the process of implementing CTP contact data. CTP will provide any exported contact data, either from the incumbent system or an HR or other source database, and the Project Manager will work with CTP to complete import of this starting set of data. The Project Manager will discuss the various ways that distribution lists (call groups) can be brought into the system, which range from an import of data from another system to manual creation of needed groups by CTP staff. Should CTP prefer that OnSolve

complete all work required to create these needed groups, including possibly working directly with different CTP groups to gather information not available via a standard export from the incumbent system, this additional service can be provided by OnSolve's Professional Services team under a separate SOW.

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

OnSolve provides standard training webinars and video tutorials that are available to all users of the MIR3 solution. CTP's Project Manager will recommend appropriate courses for different levels of users. Training customized for CTP is available under a separate Statement of Work.

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

As a standard, commercial SaaS solution, OnSolve does not need to perform any system testing for specific customers. All system QA testing is performed as part of our standard development and release cycle, with the system fully functional for each new account immediately. CTP will be responsible for testing of the system using CTP data that has been input on contacts and groups in combination with notification alert templates designed and created by CTP.

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

OnSolve provides all SaaS solution customers with 24/7/365 support of their usage of the MIR3 SaaS solution. We normally provide three to four new releases a year, though this number may change based on the scope and number of enhancements being addressed. Notice of any planned maintenance is provided in advance, with users registered by each customer receiving emailed notifications several weeks in advance. 'Major' releases that contain more significant or wide-reaching changes occur about once a year, but OnSolve does not explicitly categorize a release as major or minor. A BETA period is made available for all major releases and any with new feature that involves major changes to the User Interface, but also for 'minor' releases that introduction smaller, new functionality, to both provide customers with an advance timeframe to preview and comment on upcoming changes in the next announced release.

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

OnSolve's support services for the MIR3 solution are available 24/7/365 to all customers, with no limitations on the hours or number of calls that may be made. Your assigned Account Manager is also available on an ongoing basis to assist you with questions and to involve other resources as required.

#### 41142 Optional Renewal YEAR 2

Renewing customers have the same full access to all MIR3 training materials as new customer. Should CTP require custom training, OnSolve's Professional Services team can provide this under a separate Statement of Work. Renewing customers continue to have access to MIR3 with a 99.99% uptime, and to our 24/7/365 support team.

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

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

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

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

#### 41143 Optional Renewal YEAR 3

Renewing customers have the same full access to all MIR3 training materials as new customer. Should CTP require custom training, OnSolve's Professional Services team can provide this under a separate Statement of Work. Renewing customers continue to have access to MIR3 with a 99.99% uptime, and to our 24/7/365 support team.

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

- 4.1.1432 Deliverable 2: By end of month 3 of the third year of the contract: Vendor will complete new user training for State and LHDs as described above in this document in Section 4.1.12. Training to be provided via 2 “web ex” presentations or one reproducible DVD.
- 4.1.1433 Deliverable 3: Throughout contract period: Vendor will maintain system in “ready” state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.
- 4.1.1434 Deliverable 4: Throughout contract period: Technical assistance will be performed as needed upon contact by State or Local staff at an estimated 5 hours of technical assistance per month.

#### 4.1.144 Optional Renewal YEAR 4

Renewing customers have the same full access to all MIR3 training materials as new customer. Should CTP require custom training, OnSolve’s Professional Services team can provide this under a separate Statement of Work. Renewing customers continue to have access to MIR3 with a 99.99% uptime, and to our 24/7/365 support team.

- 4.1.1441 Deliverable 1: By end of month 3 of the fourth year of the contract: Vendor will develop user update training curriculum/delivery mechanism for all users as described above in this document in Section 4.1.12. Training to be provided via 2 “web ex” presentations or 1 reproducible DVD.
- 4.1.1442 Deliverable 2: By end of month 3 of the fourth year of the contract: Vendor will complete new user training for State and LHDs as described above in this document in Section 4.1.12. Training to be provided via 2 “web ex” presentations or one reproducible DVD.
- 4.1.1443 Deliverable 3: Throughout contract period: Vendor will maintain system in “ready” state, constantly monitoring for any operational irregularity and be prepared to respond to ensure constant availability of system. Vendor will support its use during notifications or information exchanges and drills and provide system upgrades and maintenance as required.
- 4.1.1444 Deliverable 4: Throughout contract period: Technical assistance will be performed as needed upon contact by State or Local staff at an estimated 5 hours of technical assistance per month.

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

As a SaaS solution, MIR3 requires no installation of specific hardware or software to utilize the system. A standard browser is used for interactive access to the web user interface, and API calls are made using standard conventions from any tool or system of CTP's choice. Should CTP choose to add Desktop Alerting to your subscription in the future, a Windows management server will be required, and a small lightweight agent installed on workstations. No specific hardware is required, and the minimum configuration requirements for the management server and workstation agent can be provided upon request by CTP.

## Disclosure of Interested Parties to Contracts

OnSolve understands this form is not required since the total annual amount of contract will be less than \$1 million.

## **Purchasing Affidavit**

OnSolve is providing the Purchasing Affidavit with a letter of explanation for the lack of signature and notary due to current COVID-19 stay-at-home order.

## 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 **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 individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying 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  
Revised 01/09/2020



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: April 8, 2020 at 10:00 AM ET

Submit Questions to: Brittany Ingraham, Senior Buyer  
2019 Washington Street, East  
Charleston, WV 25305  
Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)  
Email: Brittany.E.Ingraham@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: RFQ for Emergency Notification System  
BUYER: Brittany Ingraham  
SOLICITATION NO.: CRFQ 0506 BPH2000000003  
BID OPENING DATE: April 16, 2020  
BID OPENING TIME: 1:30 PM ET  
FAX NUMBER: 304.558.3970

Revised 01/09/2020

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: April 16, 2020 at 1:30 PM ET

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 must 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. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. 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 \_\_\_\_\_  
Upon Award \_\_\_\_\_ and extends for a period of \_\_\_\_\_ One (1) \_\_\_\_\_ 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 \_\_\_\_\_ Three (3) \_\_\_\_\_ successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

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

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

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

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

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

**Other:** See attached.

**4. 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 upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

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

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

Vendor must maintain:

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

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

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

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

**Cyber Liability Insurance** in an amount of: \_\_\_\_\_ per occurrence.

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

**Pollution Insurance** in an amount of: \_\_\_\_\_ per occurrence.

**Aircraft Liability** in an amount of: \_\_\_\_\_ per occurrence.

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

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

**10. [Reserved]**

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

N/A \_\_\_\_\_ for \_\_\_\_\_

Liquidated Damages Contained in the Specifications

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

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

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

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

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

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

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

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

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

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

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

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

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

**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](mailto: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 01/09/2020



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.

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

## **ADDITIONAL TERMS AND CONDITIONS (Construction Contracts Only)**

**1. CONTRACTOR'S LICENSE:** West Virginia Code § 21-11-2 requires that all persons desiring to perform contracting work in this state be licensed. The West Virginia Contractors Licensing Board is empowered to issue the contractor's license. Applications for a contractor's license may be made by contacting the West Virginia Division of Labor. West Virginia Code § 21-11-11 requires any prospective Vendor to include the contractor's license number on its bid. If an apparent low bidder fails to submit a license number in accordance with this section, the Purchasing Division will promptly request by telephone and electronic mail that the low bidder and the second low bidder provide the license number within one business day of the request. Failure of the bidder to provide the license number within one business day of receiving the request shall result in disqualification of the bid. Vendors should include a contractor's license number in the space provided below.

Contractor's Name: N/A

Contractor's License No.: WV- N/A

The apparent successful Vendor must furnish a copy of its contractor's license prior to the issuance of a contract award document.

**2. DRUG-FREE WORKPLACE AFFIDAVIT:** W. Va. Code § 21-1D-5 provides that any solicitation for a public improvement contract requires each Vendor that submits a bid for the work to submit an affidavit that the Vendor has a written plan for a drug-free workplace policy. If the affidavit is not submitted with the bid submission, the Purchasing Division shall promptly request by telephone and electronic mail that the low bidder and second low bidder provide the affidavit within one business day of the request. Failure to submit the affidavit within one business day of receiving the request shall result in disqualification of the bid. To comply with this law, Vendor should complete the enclosed drug-free workplace affidavit and submit the same with its bid. Failure to submit the signed and notarized drugfree workplace affidavit or a similar affidavit that fully complies with the requirements of the applicable code, within one business day of being requested to do so shall result in disqualification of Vendor's bid. Pursuant to W. Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

**2.1. DRUG-FREE WORKPLACE POLICY:** Pursuant to W. Va. Code § 21-1D-4, Vendor and its subcontractors must implement and maintain a written drug-free workplace policy that complies with said article. The awarding public authority shall cancel this contract if: (1) Vendor fails to implement and maintain a written drug-free workplace policy described in the preceding paragraph, (2) Vendor fails to provide information regarding implementation of its drug-free workplace policy at the request of the public authority; or (3) Vendor provides to the public authority false information regarding the contractor's drug-free workplace policy.

Pursuant to W. Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

**3. DRUG FREE WORKPLACE REPORT:** Pursuant to W. Va. Code § 21-1D-7b, no less than once per year, or upon completion of the project, every contractor shall provide a certified report to the public authority which let the contract. For contracts over \$25,000, the public authority shall be the West Virginia Purchasing Division. For contracts of \$25,000 or less, the public authority shall be the agency issuing the contract. The report shall include:

- (1) Information to show that the education and training service to the requirements of West Virginia Code § 21-1D-5 was provided;
- (2) The name of the laboratory certified by the United States Department of Health and Human Services or its successor that performs the drug tests;
- (3) The average number of employees in connection with the construction on the public improvement;
- (4) Drug test results for the following categories including the number of positive tests and the number of negative tests: (A) Pre-employment and new hires; (B) Reasonable suspicion; (C) Post-accident; and (D) Random.

Vendor should utilize the attached Certified Drug Free Workplace Report Coversheet when submitting the report required hereunder. Pursuant to W. Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

**4. AIA DOCUMENTS:** All construction contracts that will be completed in conjunction with architectural services procured under Chapter 5G of the West Virginia Code will be governed by the attached AIA documents, as amended by the Supplementary Conditions for the State of West Virginia, in addition to the terms and conditions contained herein.

**4A. PROHIBITION AGAINST GENERAL CONDITIONS:** Notwithstanding anything contained in the AIA Documents or the Supplementary Conditions, the State of West Virginia will not pay for general conditions, or winter conditions, or any other condition representing a delay in the contracts. The Vendor is expected to mitigate delay costs to the greatest extent possible and any costs associated with Delays must be specifically and concretely identified. The state will not consider an average daily rate multiplied by the number of days extended to be an acceptable charge.

**5. GREEN BUILDINGS MINIMUM ENERGY STANDARDS:** In accordance with § 22-29-4, all new building construction projects of public agencies that have not entered the schematic design phase prior to July 1, 2012, or any building construction project receiving state grant funds and appropriations, including public schools, that have not entered the schematic design phase prior to July 1, 2012, shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007: Provided, That if any construction project has a commitment of federal funds to pay for a portion of such project, this provision shall only apply to the extent such standards are consistent with the federal standards.

**6. LOCAL LABOR MARKET HIRING REQUIREMENT:** Pursuant to West Virginia Code §21-1C-1 et seq., Employers shall hire at least seventy-five percent of employees for public improvement construction projects from the local labor market, to be rounded off, with at least two employees from outside the local labor market permissible for each employer per project.

Any employer unable to employ the minimum number of employees from the local labor market shall inform the nearest office of Workforce West Virginia of the number of qualified employees needed and provide a job description of the positions to be filled.

If, within three business days following the placing of a job order, Workforce West Virginia is unable to refer any qualified job applicants to the employer or refers less qualified job applicants than the number requested, then Workforce West Virginia shall issue a waiver to the employer stating the unavailability of applicant and shall permit the employer to fill any positions covered by the waiver from outside the local labor market. The waiver shall be in writing and shall be issued within the prescribed three days. A waiver certificate shall be sent to both the employer for its permanent project records and to the public authority.

Any employer who violates this requirement is subject to a civil penalty of \$250 per each employee less than the required threshold of seventy-five percent per day of violation after receipt of a notice of violation.

Any employer that continues to violate any provision of this article more than fourteen calendar days after receipt of a notice of violation is subject to a civil penalty of \$500 per each employee less than the required threshold of seventy-five percent per day of violation.

The following terms used in this section have the meaning shown below.

(1) The term “construction project” means any construction, reconstruction, improvement, enlargement, painting, decorating or repair of any public improvement let to contract in an amount equal to or greater than \$500,000. The term “construction project” does not include temporary or emergency repairs;

(2) The term “employee” means any person hired or permitted to perform hourly work for wages by a person, firm or corporation in the construction industry; The term “employee” does not include:(i) Bona fide employees of a public authority or individuals engaged in making temporary or emergency repairs;(ii) Bona fide independent contractors; or(iii) Salaried supervisory personnel necessary to assure efficient execution of the employee's work;

(3) The term “employer” means any person, firm or corporation employing one or more employees on any public improvement and includes all contractors and subcontractors;

(4) The term “local labor market” means every county in West Virginia and any county outside of West Virginia if any portion of that county is within fifty miles of the border of West Virginia;

(5) The term “public improvement” includes the construction of all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports and all other structures that may be let to contract by a public authority, excluding improvements funded, in whole or in part, by federal funds.

**7. DAVIS-BACON AND RELATED ACT WAGE RATES:**

- The work performed under this contract is federally funded in whole, or in part. Pursuant to \_\_\_\_\_, Vendors are required to pay applicable Davis-Bacon wage rates.
- The work performed under this contract is not subject to Davis-Bacon wage rates.

**8. SUBCONTRACTOR LIST SUBMISSION:** In accordance with W. Va. Code § 5-22-1, the apparent low bidder on a contract valued at more than \$250,000.00 for the construction, alteration, decoration, painting or improvement of a new or existing building or structure shall submit a list of all subcontractors who will perform more than \$25,000.00 of work on the project including labor and materials. (This section does not apply to any other construction projects, such as highway, mine reclamation, water or sewer projects.) The subcontractor list shall be provided to the Purchasing Division within one business day of the opening of bids for review. If the apparent low bidder fails to submit the subcontractor list, the Purchasing Division shall promptly request by telephone and electronic mail that the low bidder and second low bidder provide the subcontractor list within one business day of the request. Failure to submit the subcontractor list within one business day of receiving the request shall result in disqualification of the bid.

If no subcontractors who will perform more than \$25,000.00 of work are to be used to complete the project, the apparent low bidder must make this clear on the subcontractor list, in the bid itself, or in response to the Purchasing Division’s request for the subcontractor list.

- a. Required Information. The subcontractor list must contain the following information:
  - i. Bidder's name
  - ii. Name of each subcontractor performing more than \$25,000 of work on the project.
  - iii. The license number of each subcontractor, as required by W. Va. Code § 21-11-1 et. seq.
  - iv. If applicable, a notation that no subcontractor will be used to perform more than \$25,000.00 of work. (This item iv. is not required if the vendor makes this clear in the bid itself or in documentation following the request for the subcontractor list.)
- b. Subcontractor List Submission Form: The subcontractor list may be submitted in any form, including the attached form, as long as the required information noted above is included. If any information is missing from the bidder’s subcontractor list submission, it may be obtained from other documents such as bids, emails, letters, etc. that accompany the subcontractor list submission.

c. Substitution of Subcontractor. Written approval must be obtained from the State Spending Unit before any subcontractor substitution is permitted. Substitutions are not permitted unless:

- i. The subcontractor listed in the original bid has filed for bankruptcy;
- ii. The subcontractor in the original bid has been debarred or suspended; or
- iii. The contractor certifies in writing that the subcontractor listed in the original bid fails, is unable, or refuses to perform his subcontract.

**Subcontractor List Submission (Construction Contracts Only)**

**Bidder's Name:** \_\_\_\_\_

Check this box if no subcontractors will perform more than \$25,000.00 of work to complete the project.

Subcontractor Name	License Number if Required by W. Va. Code § 21-11-1 et. seq.

Attach additional pages if necessary



**ADDITIONAL TERMS AND CONDITIONS  
(Architectural and Engineering Contracts Only)**

**1. PLAN AND DRAWING DISTRIBUTION:** All plans and drawings must be completed and available for distribution at least five business days prior to a scheduled pre-bid meeting for the construction or other work related to the plans and drawings.

**2. PROJECT ADDENDA REQUIREMENTS:** The Architect/Engineer and/or Agency shall be required to abide by the following schedule in issuing construction project addenda. The Architect/Engineer shall prepare any addendum materials for which it is responsible, and a list of all vendors that have obtained drawings and specifications for the project. The Architect/Engineer shall then send a copy of the addendum materials and the list of vendors to the State Agency for which the contract is issued to allow the Agency to make any necessary modifications. The addendum and list shall then be forwarded to the Purchasing Division buyer by the Agency. The Purchasing Division buyer shall send the addendum to all interested vendors and, if necessary, extend the bid opening date. Any addendum should be received by the Purchasing Division at least fourteen (14) days prior to the bid opening date.

**3. PRE-BID MEETING RESPONSIBILITIES:** The Architect/Engineer shall be available to attend any pre-bid meeting for the construction or other work resulting from the plans, drawings, or specifications prepared by the Architect/Engineer.

**4. AIA DOCUMENTS:** All construction contracts that will be completed in conjunction with architectural services procured under Chapter 5G of the West Virginia Code will be governed by the attached AIA documents, as amended by the Supplementary Conditions for the State of West Virginia, in addition to the terms and conditions contained herein. The terms and conditions of this document shall prevail over anything contained in the AIA Documents or the Supplementary Conditions.

**5. GREEN BUILDINGS MINIMUM ENERGY STANDARDS:** In accordance with West Virginia Code § 22-29-4, all new building construction projects of public agencies that have not entered the schematic design phase prior to July 1, 2012, or any building construction project receiving state grant funds and appropriations, including public schools, that have not entered the schematic design phase prior to July 1, 2012, shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007: Provided, That if any construction project has a commitment of federal funds to pay for a portion of such project, this provision shall only apply to the extent such standards are consistent with the federal standards.

**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.

---

(Name, Title)

John Abbruzzese, Regional Sales Manager

---

(Printed Name and Title)

780 W. Granada Blvd., Ormond Beach, FL 32174

---

(Address)

866-939-0911 / 386-676-1127

---

(Phone Number) / (Fax Number)

john.abbruzzese@onsolve.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.

OnSolve, LLC

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(Company)



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(Authorized Signature) (Representative Name, Title)

Chad Trainor/Senior Director, Sales Ops & Sales Dev

---

(Printed Name and Title of Authorized Representative)

April 23, 2020

---

(Date)

866-939-0911 / 386-676-1127

---

(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 checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input checked="" 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.

**OnSolve, LLC**

Company

*Chad Feainoe*

Authorized Signature

**4/23/2020**

Date

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

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: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_, to-wit:

Taken, subscribed, and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission expires \_\_\_\_\_, 20\_\_\_\_.

**AFFIX SEAL HERE**

**NOTARY PUBLIC** \_\_\_\_\_

April 23, 2020

State of West Virginia  
Department of Administration  
2019 Washington Street East  
Charleston, WV 25305-0130

To Whom it May Concern:

Due to COVID-19, the State of Florida is under Executive Order 20-91 Essential Services and Activities During COVID-19 Emergency (“Stay-at-Home Order”) until April 30, 2020. In compliance with the Stay-at-Home Order, the offices for OnSolve, LLC (“OnSolve”) are currently closed with our employees working from home. Accordingly, we are unable to submit the Purchasing Affidavit with the required notarization. In the event OnSolve is awarded the bid, we will complete the signature and notary authorization upon award. We appreciate your understanding in this matter

Thank you,



Amanda J. Bowman  
Assistant General Counsel

**OnSolve, LLC**

P: 866.939.0911

E: [amanda.bowman@onsolve.com](mailto:amanda.bowman@onsolve.com)

## OnSolve's Exceptions and Terms and Conditions

OnSolve is a company of integrity and negotiates in good faith. We request the following exceptions to the provided terms and conditions. We also request OnSolve's standard terms and conditions be incorporated into the Contract and are provided for your consideration.

### Exceptions to State's Documents

#### Instructions to Vendors Submitting Bids

**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.

Exception: *Unless required pursuant to applicable law, we request that our bid not be incorporated into the resulting contract. We request that the basis of the contractual agreement be those terms and conditions that the State and OnSolve mutually agree on. To that end, we are including our terms and conditions for State consideration as our terms relate to the SaaS product that is the basis for OnSolve's bid. OnSolve will discuss any contract provisions which may be required by the State pursuant to law or are required for the State's contracting processes.*

#### General Terms and Conditions

##### 1. CONTRACTUAL AGREEMENT

Exception: *We request that the basis of the contractual agreement be those terms and conditions that the State and OnSolve mutually agree on. To that end, we are including our terms and conditions for State consideration as our terms relate to the SaaS product that is the basis for OnSolve's bid. OnSolve will discuss any contract provisions which may be required by the State pursuant to law or are required for the State's contracting processes.*

##### 3. CONTRACT TERM; RENEWAL; EXTENSION

###### RENEWAL TERM

**In the even the Agency notifies the Vendor of a renewal of this contract,** 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.

##### 12. ACCEPTANCE

Exception: *OnSolve is providing exceptions to the State's terms and conditions. However, we respectfully request the State's consideration of OnSolve's standard terms and conditions provided with our response documents.*

##### 14. PAYMENT IN ARREARS

Exception: *Payment for the SaaS product is in advance and annually. Upon the State's notice to proceed, the Services are immediately available to the State. Given the immediate availability of the Services, payment in arrears is not applicable.*

##### 19. CANCELLATION

Exception: OnSolve requests that the following language re: termination as a result of breach:

If either party defaults in the performance of or compliance with any of its material obligations under this Contract and such default has not been remedied or cured within thirty (30) days after written notice of such default, the non-defaulting party may immediately terminate this Contract in addition to its other rights and remedies.

## 22. COMPLIANCE WITH LAWS

Exception: Each party shall comply with all applicable federal, state, and local laws, regulations, and ordinances and in each case to the extent applicable to a party and the services provided under this Contract.

## 26. SUBSEQUENT FORMS

Exception: The terms and conditions contained in this Contract **which shall include Vendor's mutually acceptable terms and conditions**, 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.

## 27. ASSIGNMENT

Exception: 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, **such consent shall not be unreasonably withheld.**

## 28. WARRANTY

Exception: OnSolve warrants that: (a) the Notification Services will perform materially in accordance with its "Documentation" (electronic or written); and (b) OnSolve shall provide the Services in a professional and diligent manner. In the event the Notification Services fail to perform materially in accordance with its Documentation (a "Program Error"), OnSolve agrees, for the term of this Agreement, to use commercially reasonable efforts to correct, cure or otherwise remedy, at OnSolve's option, such Program Error at OnSolve's sole expense. The State agrees to cooperate and work closely with OnSolve in a prompt and reasonable manner in connection with OnSolve's correction efforts. The State's sole remedy for any breach of warranty under this section will be to have OnSolve use its commercially reasonable efforts to cure such breach as provided herein. If OnSolve fails to remedy the breach within one (1) month, the State may terminate this Contract and OnSolve will promptly refund any unused portions of prepaid subscription fees, if any (less any fees accrued prior to the date of termination). EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS CONTRACT, THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND. ONSOLVE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE SERVICES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ONSOLVE DOES NOT REPRESENT OR WARRANT THAT THE SERVICES WILL BE PROVIDED ERROR FREE OR WITHOUT INTERRUPTION, THAT ALL NOTIFICATIONS WILL BE DELIVERED, OR THAT THE NOTIFICATION SERVICE WILL WORK WITH, OR BE SUPPORTED WITH RESPECT TO, ALL PROTOCOLS, NETWORKS OR OPERATING SYSTEMS OR ENVIRONMENTS.

## 36. INDEMNIFICATION

Exception: (1) Any claims or losses related to the willful misconduct or gross negligence of any subcontractor, person, or firm performing or supplying services, materials, or supplies on behalf of Vendor 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 arising from any infringement of any third party's patent, copyright, trademark, or trade secret rights by the Notification Services or the System provided by OnSolve under this Contract (other than to the extent based on any Notification Content). The foregoing obligation of indemnification does not apply with respect to the Notification Services or the System or portions or components thereof (i) that OnSolve did not supply, (ii) that are combined with other products, processes or materials where the infringement or misappropriation relates to such combination, unless OnSolve expressly authorized such combination, or (iii) where the State's use of the Notification Services or System is not strictly in accordance with this Contract. In the event OnSolve believes that the System or Notification Service is, or is likely to be, the subject of an infringement claim, OnSolve may, at its option, (i) procure for the State the right to continue using the Notification Service under this Contract, (ii) replace or modify the System or Notification Service so that it becomes non-infringing but substantially equivalent in functionality and performance, or (iii) if neither clause (i) or (ii) are reasonably feasible in spite of OnSolve's reasonable efforts, terminate this Contract and the rights granted herein and refund to the State a prorated portion of fees based on the remaining unused portion of the prepaid Subscription Period. The foregoing obligations are OnSolve's only obligations and liability in connection with infringement by the System or Notification Services.

#### **41. BACKGROUND CHECK:**

Exception: Upon the State's request, the Vendor shall certify the background checks performed by Vendor of employees who have access to the State's sensitive or critical information.

#### **CRFQ BPH2000000003 Public Health Emergency Notification System - Specifications**

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

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

Exception: OnSolve will return any data provided to us by CTP.

4.1.12.1 Training materials will become the property of the State to copy at will for additional users.

Exception: *Training materials may be copied as needed but are proprietary and do not become the property of the State.*

#### **7. Payment:**



Exception: *Payment for the SaaS product is in advance and annually. Upon the State's notice to proceed, the Services are immediately available to the State. Given the immediate availability of the Services, payment in arrears is not applicable.*

10.1.1 Failure to perform Contract Services ~~in accordance with the requirements contained herein~~ **Vendor's documentation related to use and access to the Notification Services.**

10.1.2 Failure to comply with other specifications and requirements ~~contained herein~~ as set forth in Vendor's bid.

10.1.4 Failure to remedy deficient performance ~~upon request~~ **after 30 days prior written notice to the Vendor.**

10.2.1 ~~Immediate~~ Cancellation of the Contract **after Vendor's thirty (30) day cure period.**

## **Notice of State of West Virginia – Confidentiality Policies and Information Security Accountability Requirements**

### 3.0 BACKGROUND

Paragraph 1: Federal laws, including, but not limited to, ~~the Health Insurance Portability and Accountability Act,~~ the Privacy Act of 1974, Fair Credit Reporting Act and State laws require that certain information be safeguarded. In some situations, Agencies delegate, through contract provisions, functions to vendors that involve the vendor's collection, use and/or disclosure of Confidential Information.

Paragraph 2: WV State government must take appropriate steps to ensure its compliance with those laws and desires to protect its citizens' and employees' privacy, ~~and therefore, must require that its vendors also obey those laws.~~ **The States acknowledges and agrees that Vendor's Services are not intended to transmit or store Sensitive Data. "Sensitive Data" means any personally identifiable information relating to health/genetic or biometric information; religious beliefs or affiliations; political opinions or political party membership; labor or trade union membership; sexual preferences or practices; national, racial or ethnic origin; philosophical or moral beliefs; criminal record, investigations or proceedings or administrative proceedings. Accordingly, Vendor shall comply with laws that are applicable to Vendor and the Services provided under the Contract.**

Paragraph 2: At these times, vendors must be accountable for the loss of data in their possession by **immediately promptly reporting** the incident surrounding the loss, and by absorbing any cost associated with the appropriate response actions deemed by the State to be reasonable and necessary, **if such loss of data is a result of Vendor's acts or omissions.**

**4.3.2** In all circumstances, vendors shall have no ownership rights or interests in any **Agency** data or information, including **Agency** Confidential Information.

**4.4.2.1** ~~Upon the discovery~~ **Within 72 hours** of Breach of security of Confidential Information, if the Confidential Information was, or is reasonably believed to have been, acquired by an unauthorized person, the vendor shall notify the individuals identified in 4.4.2.3 immediately by telephone call plus e-mail, web form or fax; or,

4.4.2.2 Within ~~24~~ **72 business** hours by e-mail or fax of any ~~suspected~~ **known** Security Incident, intrusion or unauthorized use or disclosure of Confidential Information, in violation of the underlying contract and this Notice, of potential loss of confidential data affecting the underlying contract.

4.4.2.4 The vendor shall ~~immediately~~ **promptly** investigate such actual or suspected Security Incident, Breach, or unauthorized use or disclosure of Confidential Information.

4.4.2.6 **In the event the Security Incident is a result of vendor's acts or omissions, a**All associated costs shall be borne by the vendor. This may include, but not be limited to costs associated with notifying affected individuals.

**1. CERTAIN DEFINITIONS.**

1.1 “Administrator” means an individual person or application capable of performing administrative functions including but not limited to, managing data for recipients or groups, running or viewing reports, managing User roles, activating/deactivating features, setting default values and/or using any of the features in the administrative area of the user interface.

1.2 “Affiliate” means any entity which directly or indirectly controls, is controlled by, or is under common control with, a party to this Agreement, where “control” means the control, through ownership or contract, of more than 50% of all the voting power of the shares entitled to vote for the election of the entity's directors or members of the entity's governing body; provided that such entity shall be considered an Affiliate only for the time during which such control exists.

1.3 “API Recipients” means an individual person whose information is stored in an external third party application database (not in the OnSolve System database) capable of receiving and responding to a Notification sent via WebServices API calls. API Recipients are not permitted to login to the Notification Services and all persons in the third party application database which is integrated to the System are counted whether or not they receive or respond to a Notification.

1.4 “Applicable Law” means any domestic and/or foreign statute, ordinance, judicial decision, executive order, or regulation having the force and effect of law.

1.5 “Data Processing Addendum” means a data processing addendum in the form provided by OnSolve and executed by the Parties, that is applicable to the processing of data under this Agreement.

1.6 “EU or Swiss Personal Data” means Personal Data of any European Economic Area (EEA) resident as defined under the General Data Protection Regulation (EU 2016/679) (“GDPR”) and any national laws implementing the GDPR, regulations and secondary legislation, or of any Swiss resident as defined under the Swiss Federal Data Protection Act and Data Ordinance 2017, each as amended or updated from time to time.

1.7 “Fees” means the Subscription Fees, Non-Recurring Service Fees and Transactions Fees.

1.8 “Initiator” means an individual person or application capable of creating and issuing Notifications (through the user interface, WebServices API or otherwise).

1.9 “Installed Components” means any software, in machine-readable form, that is delivered by OnSolve for installation on computers or devices controlled by Customer or Customer's Users solely for use as part of and with the Notification Services.

1.10 “Non-Recurring Service Fee” means the fees for non-recurring services such as setup, implementation, training, consulting, integration and customization.

1.11 “Notifications” means messages issued by an Initiator through the Notification Services, whether or not responded to by Recipient.

1.12 “Notification Content” means all content, data, text, messages and other material contained in a Notification.

1.13 “Notification Services” means OnSolve's System-based, Internet-accessed notification services to set up and send Notifications.

1.14 “Recipient” means an individual person capable of only receiving and responding to Notifications and, if permitted, updating its own user profile.

1.15 “Sensitive Data” has the meaning set forth in Section 7.3.

1.16 “Services” means the Notification Services and related services provided by OnSolve under this Agreement.

1.17 “Services Order” means the order attached as Exhibit A.

1.18 “Standard Personal Information” has the meaning set forth in Section 7.3.

1.19 “Subscription Fee” means the fees for access to and use of the Notification Services.

1.20 “Subscription Period” means the subscription period specified on Exhibit A.

1.21 “System” means the software, hardware, and infrastructure collectively used by the Notification Services, which may include third-party components.

1.22 “Telephony Port” means the telephone lines enabled with hardware and software that are capable of converting text to spoken words or DTMF signals for a discrete period of time.

1.23 “Transaction Fee” means the fees for individual transactions of sending and/or receiving Notifications to and from devices such as telephone, short message service (SMS), pagers, fax, etc.

1.24 “User(s)” is the collective term for Administrator(s), Initiator(s), and Recipient(s). User subscriptions are for designated Users and cannot be shared or used by more than one User, but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services.

1.25 “WebServices” or “SDK” means the instructions and protocols (API and command line interface) designed to permit integration of applications developed by others and the Notification Services. Each integration requires an Initiator account and all users stored in the external application qualify as Users under this Agreement.

**2. SCOPE OF THE SERVICES.**

2.1 **Notification Services.** Subject to the terms of this Agreement, OnSolve will provide Customer with access to use the Notification Services for Customer's internal business purposes only and only in accordance with the applicable user documentation that OnSolve provides to Customer. Only Customer's and its Affiliates' employees and consultants may act as Initiators or Administrators. All use of the Notification Services by Customer's Affiliates and its and their consultants are subject to the restrictions set forth in this Agreement, and Customer shall be responsible for (i) all fees accruing from the use of the Notification Services by its Affiliates and its and their consultants, and (ii) all actions of its Affiliates, and its and their consultants, as if such actions had been conducted by Customer. Customer may not, and may not allow or assist any other entity to, sublicense, assign, transfer, distribute, rent or sell use of or access to the Notification Services, whether as a service bureau or otherwise, or remove, alter or obscure any product identification, copyright or other notices.

2.2 **Support for the Notification Services.** OnSolve will provide to Customer the technical support, maintenance, and

generally available updates as set forth in Exhibit C (Support Service Levels). Customer shall not contract with or otherwise allow a third party to provide assistance or support for the Notification Services without the prior written consent of OnSolve.

**2.3 Installed Components.** Installed Components, if ordered, will be expressly set forth on Exhibit A. If ordered, Customer shall have a limited, nonexclusive, nontransferable right to use the Installed Components solely in connection with the use of the Notification Services. Except for one copy of the Installed Components solely for back-up purposes, copying of the Installed Components, if any, is expressly forbidden. Customer shall not, and shall not allow or assist any other entity to, decompile, disassemble, or otherwise reverse engineer or attempt to discover any source code or underlying ideas of any Installed Component, or modify any Installed Component, except to the extent (but only to such extent) that applicable law prohibits such restrictions.

**2.4 Audit.** During the term of this Agreement and for a period of one (1) year thereafter, OnSolve shall have the right (at its own expense, upon reasonable notice, and no more frequently than once per calendar year unless prior breach has been uncovered) to conduct or have a third party auditor conduct an inspection of the compliance by Customer (including any other persons or entities that are permitted to use or access the Notification Services) of this Agreement. Customer will, and shall cause its Affiliates and consultants, to cooperate in good faith with such audit activities. In the event an audit uncovers a breach of this Agreement, Customer agrees to pay OnSolve the costs of such audit within ten (10) days of receipt of notice of the results of such audit and the costs therefor.

**2.5 Professional Services.** From time to time, Customer may engage OnSolve to provide certain professional services ("Professional Services"), such as installations, implementations, software testing and custom modifications, related to OnSolve's Notification Services. Each such engagement of professional services will be described in a statement of work that must be accepted in writing by an authorized representative of each party. In the event of a conflict between the terms provided in this Agreement and the terms of any Statement of Work, the terms of this Agreement will prevail, except that the terms of the Statement of Work shall prevail over conflicting terms of this Agreement (but only with respect to such Statement of Work) where the Statement of Work explicitly identifies such conflicting terms and confirms the intent of the parties to supersede or modify the conflicting term of this Agreement.

### **3. FEES AND PAYMENT.**

**3.1 Fees and Expenses.** Customer shall pay the Fees and expenses as set forth in the Services Order. If applicable, all reasonable and customary travel related expenses, such as airfare, hotel, transportation, and meals will be billed to Customer for any on-site work performed under this agreement. If travel expenses are incurred, OnSolve will make reasonable efforts to hold travel costs to a minimum.

**3.2 Payment and Taxes.** Unless otherwise specified on the Services Order, OnSolve will invoice Customer for all Fees and reimbursable expenses incurred under this Agreement as set forth on the Services Order, and all invoiced amounts will be due and payable thirty (30) days after the date of the invoice. Overdue amounts will be subject to a late payment charge at the lesser of one and one half percent (1.5%) per

month or the highest rate permissible under applicable law for the actual number of days elapsed from the date due. All billing and payment will be in United States dollars only. All payments hereunder are exclusive of all taxes, and Customer agrees to pay any taxes, whether foreign, federal, state, local or municipal that may be imposed upon or with respect to the services performed or technology provided hereunder, exclusive of taxes on OnSolve's net income.

### **4. TERM AND TERMINATION.**

**4.1 Term.** Unless earlier terminated in accordance with this Section 4, the initial term of this Agreement will commence on the Effective Date and continue until the end of the initial Subscription Period, and thereafter will automatically renew for renewal terms each equal in length to the preceding Subscription Period, unless either party provides written notice (in accordance with Section 13.6) of termination at least sixty (60) days prior to the end of the then-current term. Renewal terms shall be on the same terms and conditions as herein, except as otherwise specified on the Services Order.

**4.2 Termination.** If either party defaults in the performance of or compliance with any of its material obligations under this Agreement and such default has not been remedied or cured within thirty (30) days after written notice of such default, the non-defaulting party may immediately terminate this Agreement in addition to its other rights and remedies.

**4.3 Suspension.** OnSolve may suspend the provision of the Notification Services to Customer under this Agreement: (a) effective immediately upon notice if Customer breaches any provision under Section 8.1 (Acceptable Use Policy); or (b) if Customer fails to pay any portion of the Fees within fifteen (15) days after receiving written notice from OnSolve that payment is past due.

**4.4 Effects of Termination.** Upon termination or expiration of this Agreement, (i) OnSolve will upon written request of Customer, erase Customer data from the production servers controlled by OnSolve to provide the Notification Services; provided, however, that OnSolve will retain report data necessary to support its billing for up to 18 months on its production servers and that data from production servers is backed up nightly to back-up servers (EVault® as of the Effective Date) that automatically store such data for up to two years after it is transferred to the back-up servers from the production servers, (ii) Customer will immediately pay to OnSolve all amounts due and payable prior to the date of such termination and, except in the event of termination by Customer due to breach by OnSolve, all unpaid Subscription Fees that would become due under the then-current Subscription Period if such termination did not occur, (iii) Customer shall immediately cease all use of the Notification Services and return or destroy all copies, extracts, derivatives and reflections of Notification Services (including without limitation Installed Components and Test Products, if any), and upon OnSolve's request, provide a written notice signed by an executive officer authorized to bind Customer that certifies that Customer has fully complied with this clause, and (iv) remedies for breach, rights to accrued payments and Sections 1 (Certain Definitions), 2.4 (Audit), 3.2 (Payment and Taxes), 4.4 (Effects of Termination), 5 (Ownership), 7 (Confidentiality and Data Security), 8.2 (Liability for Content), 11 (Indemnification), 12 (Limitation of Liability), and 13 (General) will survive.

**5. OWNERSHIP.** All rights not expressly granted to Customer herein are expressly reserved by OnSolve. As

between the parties, the Notification Services and the System are and will remain exclusive property of OnSolve and its licensors. OnSolve shall own any and all developments, inventions and work product created under any Professional Services. Notification Content shall be owned by Customer. OnSolve shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Notifications Services (or, if applicable, to any Test Product under Section 10) any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including Users, relating to the Notification Services (or Test Product, as the case may be).

6. **SYSTEM MONITORING.** OnSolve expressly reserves the right to monitor any and all use of the Notification Services. OnSolve may gather system data for the purpose of optimizing the Notification Services. This information includes, but is not limited to, data regarding memory usage, connection speed and efficiency. OnSolve shall have no obligation to monitor the Notification Content, but reserves the right to monitor the Notification Services for purposes of verifying compliance with the terms of this Agreement.

7. **CONFIDENTIALITY AND DATA SECURITY.**

7.1 **Confidential Information.** During the course of this Agreement, each party may have access to confidential, proprietary or trade secret information disclosed by the other party, including, without limitation, ideas, trade secrets, procedures, methods, systems, and concepts, whether disclosed orally or in writing or stored within the System, or by any other media ("Confidential Information"). Any information related to the Notification Services or System shall be deemed to be the Confidential Information of OnSolve, and any Notification Content shall be deemed to be the Confidential Information of Customer. Each party (the "Receiving Party") acknowledges that the Confidential Information of the other party (the "Disclosing Party") contains valuable trade secrets and other proprietary information of the Disclosing Party and that any such Confidential Information will remain the sole and exclusive property of the Disclosing Party. Each party will use the Confidential Information provided hereunder only for the purpose for which it was provided, restrict disclosure of Confidential Information solely to its employees and contractors with a need to know, not disclose such Confidential Information to any other entities, and otherwise protect the Confidential Information with no less restrictive measures than it uses to protect its own confidential and proprietary information. Information will not be deemed "Confidential Information" if such information: (a) is generally available to the public (other than through breach of this Agreement); (b) is received from a third party lawfully empowered to disclose such information without being subject to an obligation of confidentiality; or (c) was rightfully in the Receiving Party's possession free of any obligation of confidence at the time it was communicated to the Receiving Party. Notwithstanding the above, the Receiving Party will not be in violation of this Section 7 with regard to a disclosure that was in response to a valid order by a court or other governmental body, provided that the Receiving Party provides the Disclosing Party with prompt written notice of such disclosure where reasonably possible in order to permit the Disclosing Party to seek confidential treatment of such information.

7.2 **Hosted Security.** OnSolve maintains, and will continue to maintain throughout the term of this Agreement, security measures to protect Customer data and prevent unauthorized access in accordance with its then-current

Hosted Services Security Measures policy. OnSolve will provide a copy of its then-current Hosted Services Security Measures policy to Customer upon request. Each copy of the Hosted Services Security Measures policy is OnSolve's Confidential Information. OnSolve may modify its Hosted Services Security Measures from time to time, but only in a manner that retains or increases the stringency of OnSolve's security obligations.

<b>Customer Data Security Contact:</b>	
<input checked="" type="checkbox"/>	Check if contact is the same as the business contact
<b>Contact/Title:</b>	_____
<b>Phone:</b>	_____
<b>Email:</b>	_____

7.3 **Data Restrictions. The terms of this Section 7.3 apply notwithstanding anything else.**

(a) Customer acknowledges and agrees that OnSolve does not require or "pull" any specific data from Customer, that Customer controls which data, and its content, is input through the use of the Notification Services and which data is sent and to whom such data is sent, and that OnSolve has no obligation to monitor the content of any data. Customer shall be responsible for procuring any necessary consents and making any notifications under Applicable Law with respect to the provision of the data to OnSolve and the processing of such data by OnSolve through the Notification Services. Upon request of OnSolve, Customer will provide OnSolve with documentation to support such consent.

(b) Customer acknowledges and agrees that (i) OnSolve's system is not intended to transmit Sensitive Data, or health-related or financial-related information (including nonpublic information collected by financial institutions subject to regulations specific to the conduct of financial services), and (ii) that OnSolve only specifically tracks the privacy regulations of the United States, Canada, the European Economic Area, Switzerland and Japan with respect to the Standard Personal Information and shall have no obligations with respect to privacy regulations in other countries or for other types of data.

(c) Customer agrees that it shall not, under any circumstances, transmit any Sensitive Data to or through the Notification Services.

(d) Customer is certified under the US-EU Privacy Shield Framework and complies with the Privacy Shield's principles in connection with the protection and handling of its Standard Personal Information. If Customer is not certified under the US-EU Privacy Shield, then Customer represents to OnSolve that its protection and handling of Standard Personal Information is in compliance with the principles outlined in the US-EU Privacy Shield Framework. OnSolve is certified under the US-EU Privacy Shield Framework and complies with the EU-US Privacy Shield principles in its handling and processing of Standard Personal Information. The Privacy Shield principles consist of: Notice; Choice, Accountability for Onward Transfer; Security; Data Integrity and Purpose Limitation; Access; Recourse; Enforcement and Liability.

(e) "Sensitive Data" means any personally identifiable information relating to health/genetic or biometric information; religious beliefs or affiliations; political opinions or political party membership; labor or trade union membership; sexual preferences or practices; national, racial or ethnic

origin; philosophical or moral beliefs; criminal record, investigations or proceedings or administrative proceedings; or any other "sensitive data" category specifically identified under any Applicable Laws.

(f) "Standard Personal Information" means name, business contact details (work telephone number, cell phone number, e-mail address and office address and location), personal contact details (home telephone number, cell phone number, other telephone, e-mail address and physical address), geolocation and employee ID.

(g) Upon written request of Customer, OnSolve will erase Customer data from the production servers controlled by OnSolve to provide the Notification Services; provided, however, that OnSolve will retain report data necessary to support its billing for up to 18 months on its production servers and that Customer understands and agrees that data from production servers is backed up nightly to back-up servers (EVault® as of the Effective Date) that automatically store such data for up to two years after it is transferred to the back-up servers from the production servers.

7.4 **Data Processing Addendum.** If executed by each party, each party shall comply with the Data Processing Addendum.

8. **CUSTOMER RESTRICTIONS.** This Section 8 includes pass-through terms from certain OnSolve vendors to provide telephony, facsimile, GIS and/or Short Message Service (SMS) Transactions to Customer and as such, OnSolve may modify these terms upon thirty (30) days written notice to Customer if reasonably necessitated due to changes by the third party providers. Failure to comply with these terms could result in the termination of certain critical services from OnSolve's suppliers which would impact all of OnSolve's customers; thus, in the event that Customer breaches any of such terms or conditions, OnSolve may suspend the provision of the Notification Services if, in OnSolve's reasonable determination, suspension is reasonably necessary to avoid liability or termination of a contract with one of OnSolve's suppliers.

8.1 **Acceptable Use Policy.** Customer shall use the Notification Services in compliance with all Applicable Laws. The Notification Services may be used solely for the transmission of Notifications. Customer shall comply with the terms set forth in Exhibit D (Acceptable Use Policy) attached hereto.

8.2 **Liability for Content.** Customer shall be responsible for, and under no circumstances will OnSolve or its Affiliates or any of their licensors or suppliers be responsible, for any loss, damage or liability arising out of any Notification Content, including any mistakes contained in the Notification Content or the use or subject matter of the Notification Content. Further, Customer is responsible for any Notifications that are sent through its accounts (other than if caused by the System itself or breaches by OnSolve).

8.3 **Security of Account.** Customer agrees to maintain all security regarding its (and its Users') account ID, password, and connectivity with the Notification Service. If Customer's account ID or password are stolen, or otherwise compromised Customer is obligated to immediately change the password and inform OnSolve of the compromise.

9. **LIMITED WARRANTY AND DISCLAIMER.** OnSolve warrants that: (a) the Notification Services will perform materially in accordance with its "Documentation" (electronic or written); and (b) OnSolve shall provide the Services in a

professional and diligent manner. In the event the Notification Services fail to perform materially in accordance with its Documentation (a "Program Error"), OnSolve agrees, for the term of this Agreement, to use commercially reasonable efforts to correct, cure or otherwise remedy, at OnSolve's option, such Program Error at OnSolve's sole expense. Customer agrees to cooperate and work closely with OnSolve in a prompt and reasonable manner in connection with OnSolve's correction efforts. Customer's sole remedy for any breach of warranty under this section will be to have OnSolve use its commercially reasonable efforts to cure such breach as provided herein. If OnSolve fails to remedy the breach within one (1) month, Customer may terminate this Agreement and OnSolve will promptly refund any unused portions of prepaid subscription fees, if any (less any fees accrued prior to the date of termination). EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND. ONSOLVE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE SERVICES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ONSOLVE DOES NOT REPRESENT OR WARRANT THAT THE SERVICES WILL BE PROVIDED ERROR FREE OR WITHOUT INTERRUPTION, THAT ALL NOTIFICATIONS WILL BE DELIVERED, OR THAT THE NOTIFICATION SERVICE WILL WORK WITH, OR BE SUPPORTED WITH RESPECT TO, ALL PROTOCOLS, NETWORKS OR OPERATING SYSTEMS OR ENVIRONMENTS.

#### 10. **CHANGES TO THE NOTIFICATION SERVICES/BETA PROGRAM.**

10.1 **Software Changes.** OnSolve may modify or delete any features of the Notification Services in any manner that (i) does not have an adverse impact on the Notification Services or (ii) may be necessary to meet any applicable legal, regulatory, or industry-standard requirements or demands. OnSolve shall notify Customer at least fifteen (15) days in advance of such changes to the Notification Services under clause (ii) that have an adverse impact on the Notification Services.

10.2 **Beta Program.** Notwithstanding anything else in this Agreement, the following terms shall apply to the Customer's use of any beta version of the Services "Test Product" to the extent relevant: (i) all restrictions and obligations of Customer related to Customer's use of the Notification Service, including without limitation responsibility for Notification Content, shall apply to Customer's use of the Test Product; (ii) Customer may use the Test Product only for evaluation activities and not in the performance of any essential business activities transactions or other non-evaluation activities; (iii) Customer may not make any copies of, or reverse engineer the Test Product; (iv) the Test Product is provided "AS IS" without any warranties of any kind and Customer assumes all risk as to the quality, function and performance of the Test Product; (v) OnSolve may terminate the Customer's right to use the Test Product at any time and Customer shall promptly cease all use and, if applicable, return or erase all copies of the Test Product; and (vi) the Test Product and any comments or suggestions of Customer with respect to the Test Product are the confidential information of OnSolve.

## 11. INDEMNIFICATION.

11.1 **OnSolve IP Indemnification.** OnSolve will defend, indemnify, and hold harmless Customer and its Affiliates (collectively, "Customer Indemnitees"), from and against any and all actions, claims or assertions brought against them by a third party ("Claims"), and all liabilities, awards, damages, settlements, fees, penalties, costs and expenses (including reasonable attorney's fees) owing to third parties (including for avoidance of doubt, government and regulatory agencies) in connection therewith (collectively, "Liabilities"), arising from any infringement of any third party's patent, copyright, trademark, or trade secret rights by the Notification Services or the System provided by OnSolve under this Agreement (other than to the extent based on any Notification Content). The foregoing obligation of indemnification does not apply with respect to the Notification Services or the System or portions or components thereof (i) that OnSolve did not supply, (ii) that are combined with other products, processes or materials where the infringement or misappropriation relates to such combination, unless OnSolve expressly authorized such combination, (iii) to the extent that Customer continues allegedly infringing activity after being provided modifications that would have avoided the alleged infringement, or (iv) where Customer's use of the Notification Services or System is not strictly in accordance with this Agreement. In the event OnSolve believes that the System or Notification Service is, or is likely to be, the subject of an infringement claim, OnSolve may, at its option, (i) procure for Customer the right to continue using the Notification Service under this Agreement, (ii) replace or modify the System or Notification Service so that it becomes non-infringing but substantially equivalent in functionality and performance, or (iii) if neither clause (i) or (ii) are reasonably feasible in spite of OnSolve's reasonable efforts, terminate this Agreement and the rights granted herein and refund to Customer a prorated portion of fees based on the remaining unused portion of the prepaid Subscription Period. The foregoing obligations are OnSolve's only obligations and liability in connection with infringement by the System or Notification Services.

11.2 **OnSolve General Indemnification.** OnSolve will defend, indemnify, and hold harmless Customer Indemnitees from and against any and all Claims, and all Liabilities in connection therewith, arising from any gross negligence or willful misconduct by OnSolve.

11.3 **OnSolve Data Security Indemnification.** OnSolve will defend, indemnify, and hold harmless Customer Indemnitees from and against any and all Claims, and all Liabilities in connection therewith, arising from any breach of Section 7 (Confidentiality and Data Security) by OnSolve.

11.4 **Customer Indemnification.** Customer will defend, indemnify, and hold harmless OnSolve and its Affiliates, licensors and suppliers (collectively, "OnSolve Indemnitees") from and against any and all Claims, and all Liabilities in connection therewith, arising from: (i) any gross negligence or willful misconduct by Customer, (ii) any breach of Section 7 (Confidentiality and Data Security) by Customer, including any failure by Customer to procure appropriate consents or any use of the Notification Services to transmit or store any Sensitive Data, (iii) breach of Section 8 (Customer Restrictions) by Customer, and (iv) Customer's and its Users' use of the Notification Services or any component thereof, including any Notification Content.

11.5 **Indemnification Procedures.** Each party seeking indemnification hereunder shall provide the other party with: (i)

prompt written notice of any claim for which indemnification is sought; (ii) complete control of the defense and settlement of such claim; and (iii) reasonable assistance and cooperation in such defense at the indemnifying party's expense. In any proceeding the indemnified party shall have the right to retain, at its expense, its own counsel. Notwithstanding the foregoing, the indemnifying party may not enter into a settlement of a claim that involves a remedy other than the payment of money by the indemnified party (which amounts must be subject to indemnification by the indemnifying party) without the indemnified party's written consent.

## 12. LIMITATION OF LIABILITY.

12.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT WITH RESPECT TO OBLIGATIONS UNDER SECTION 11 (INDEMNIFICATION), OR FOR ANY BREACH OF SECTIONS 7 (CONFIDENTIALITY AND DATA SECURITY) OR 8 (CUSTOMER RESTRICTIONS), (I) NEITHER PARTY (OR ITS AFFILIATES, OR ITS OR THEIR LICENSORS OR SUPPLIERS) WILL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION ANY LOSS OF USE, LOSS OF BUSINESS, COST OF PROCUREMENT OF SUBSTITUTE SERVICES OR LOSS OF PROFIT OR REVENUE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE SERVICES RENDERED HEREUNDER (HOWEVER ARISING, INCLUDING NEGLIGENCE), EVEN IF THE PARTIES ARE AWARE OF THE POSSIBILITY OF SUCH DAMAGES, AND (II) EACH PARTY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SERVICES RENDERED HEREUNDER, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED (IN THE CASE OF ONSOLVE LIABILITY) ANY FEES PAID BY CUSTOMER TO ONSOLVE, OR (IN THE CASE OF CUSTOMER LIABILITY) EXCEED ANY FEES PAID OR OWED BY CUSTOMER UNDER THIS AGREEMENT, DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE FIRST NOTICE IS PROVIDED BY EITHER PARTY REFERENCING THE RELEVANT CLAIM HEREUNDER.

12.2 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT WITH RESPECT TO GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL ONSOLVE'S TOTAL CUMULATIVE LIABILITY UNDER SECTION 11.3 (ONSOLVE DATA SECURITY INDEMNIFICATION) OR FOR ANY BREACH OF SECTION 7 (CONFIDENTIALITY AND DATA SECURITY) EXCEED THREE TIMES (3X) THE FEES PAID BY CUSTOMER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE FIRST NOTICE IS PROVIDED BY CUSTOMER REFERENCING THE RELEVANT CLAIM HEREUNDER. Customer understands and agrees that the limitation of liability in this Agreement for OnSolve is reasonable and that OnSolve would not enter into this Agreement without such limitations.

## 13. GENERAL.

13.1 **Export Compliance.** The Notification Services, System, Installed Components (if applicable) and other OnSolve technology, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Customer represents that it is not named on any U.S. government denied-party list. Customer will not permit any User to access or use the Notification Service in a U.S.-

embargoed country (currently Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or regulation, and will not permit any U.S.-sanctioned persons or entities to act as Users.

13.2 **Assignments.** Neither party may assign this Agreement without the prior written consent of the other party, except to an Affiliate or to an entity that acquires all or substantially all of its business or assets, whether through merger, reorganization or otherwise. Any assignment in violation of the foregoing shall be void and of no effect.

13.3 **Force Majeure.** Neither party will be in default or otherwise liable for any delay in or failure of its performance under this Agreement if such delay or failure arises by any reason beyond its reasonable control, including any act of God, or any acts of the common enemy, the elements, earthquakes, floods, fires, epidemics, riots, failures or delays in transportation or communications, or any act or failure to act by the other party, its employees, agents or contractors; provided, however, that the foregoing shall not excuse any failure of OnSolve to maintain its redundant hosted sites, unless such event impacts all redundant site locations. The parties will promptly inform and consult with each other as to any of the above causes, which in their judgment may or could be the cause of a substantial delay in the performance of this Agreement.

13.4 **Governing Law/Venue.** This Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the State of Delaware without reference to its choice of law rules. The sole jurisdiction and venue for actions related to the subject matter of this agreement shall be the state and US federal courts located within New Castle County. Notwithstanding anything herein, either party may seek injunctive relief and the enforcement of judgments in any court of competent jurisdiction, no matter where located. The prevailing party in any action to enforce or interpret this Agreement shall be entitled to recover costs and expenses including, without limitation, attorneys' fees.

13.5 **Independent Contractors.** Customer and OnSolve are independent contractors and nothing in this Agreement will be deemed to create any agency, employee-employer relationship, partnership, or joint venture between the parties. Except as otherwise specifically provided in this Agreement, neither party will have or represent that it has the right, power or authority to bind, contract or commit the other party or to create any obligation on behalf of the other party.

13.6 **Notices.** All notices and consents required or permitted under this Agreement must be in writing; must be personally delivered or sent by registered or certified mail (postage prepaid), by overnight courier, or by facsimile (receipt confirmed), in each case to the appropriate party listed below and, if not indicated, at the address set forth on the signature page of this Agreement, and will be effective upon receipt. Each party may change its address for receipt of notices by giving notice of the new address to the other party.

To OnSolve:	
<b>Company:</b>	OnSolve, Inc.
<b>Attention:</b>	Legal Notices
<b>Address:</b>	780 W. Granada Boulevard,
<b>City, State, Zip:</b>	Ormond Beach, FL 32174
<b>Phone:</b>	866-939-0911
<b>Email:</b>	legalnotices@OnSolve.com
To Customer:	
<b>Company:</b>	

<b>Attention:</b>	
<b>Address:</b>	
<b>City, State, Zip:</b>	
<b>Phone:</b>	
<b>Email:</b>	

13.7 **Publicity.** OnSolve may issue one (1) press release within thirty (30) days of the Effective Date of this Agreement announcing the existence of this Agreement and generally describing the terms hereof or as otherwise mutually agreed by the parties. During the term of this Agreement, OnSolve may use Customer's name and logo on the OnSolve website and in OnSolve's collateral marketing materials relating to the Notification Services, provided that Customer has approved in writing the form of any such use, such approval not to be unreasonably withheld.

13.8 **U.S. Government End Users.** As defined in FAR section 2.101, DFAR section 252.227-7014(a)(1) and DFAR section 252.227-7014(a)(5) or otherwise, *all software* and accompanying documentation provided in connection with this Agreement are "commercial items," "commercial computer software," and or "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, disclosure or distribution thereof by or for the U.S. Government shall be governed solely by the terms of this Agreement. Customer will ensure that each copy used or possessed by or for the government is labeled to reflect the foregoing.

13.9 **Severability.** If any provision of this Agreement is held by a court of law to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining provisions of this Agreement will not be affected or impaired thereby and the illegal, invalid, or unenforceable provision will be deemed modified such that it is legal, valid, and enforceable and accomplishes the intention of the parties to the fullest extent possible.

13.10 **Waivers.** The failure of either party to enforce any provision of this Agreement, unless waived in writing by such party, will not constitute a waiver of that party's right to enforce that provision or any other provision of this Agreement.

13.11 **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between Customer and Provider with respect to the subject matter hereof and supersedes all prior and contemporaneous verbal and written negotiations, agreements and understandings, if any, between the parties. This Agreement cannot be modified except by a writing signed by an authorized representative of each party. The terms of this Agreement shall take precedence over any conflicting terms in purchase or procurement documentation, such as a purchase order, acknowledgement form, or other similar documentation and any pre-printed terms and conditions on or attached to Customer's purchase orders or invoices will be of no force or effect. The failure of either party to enforce any provision of this Agreement, unless waived in writing by such party, will not constitute a waiver of that party's right to enforce that provision or any other provision of this Agreement.

13.12 **Counterparts.** This Agreement may be executed in facsimile and in counterparts.

**End Exhibit B.**



## EXHIBIT C – SUPPORT SERVICE LEVELS

### United States Datacenter:

The Notification Services are hosted at three (3) redundant sites currently located in Atlanta, GA, Las Vegas, NV and Dallas, TX. One site is the primary and two are secondary. These sites operate 24 hours per day, seven days per week with data replication between the primary and first secondary site on a real-time basis and with snapshot data replication nightly to the other secondary site. Each site monitors the other and switchover will occur in less than three minutes in the case of primary site failure. Additionally, routine daily backups are performed, encrypted and transmitted to a secure off site location to ensure Customer data can be recovered from the previous 24 hours.

### Canadian Datacenter:

The Notification Services messaging servers are hosted at two (2) redundant sites currently located in Toronto, Canada and London, United Kingdom. The Toronto site is the primary and London is secondary. These sites operate 24 hours per day, seven days per week with data replication between two sites on twelve hour snapshot basis. Each site monitors the other and fails over in the case of primary site failure. Fail-over will occur in less than three minutes. Telephone numbers for Notifications sent via voice will be stored anonymously on the telephony server log files within the United States. The Notification Services email servers are located in both Toronto and England. Telephony, facsimile, and SMS are sent from servers located in the United States. Additionally, routine daily backups are performed, encrypted and transmitted to a secure off site location to ensure Customer data can be recovered from the previous 24 hours.

### Europe Datacenter:

The Notification Services messaging servers are hosted at two (2) redundant sites currently located in London, England and Toronto, Canada. The London site is primary and Toronto is secondary. These sites operate 24 hours per day, seven days per week with data replication between two sites on twelve hour snapshot basis. Each site monitors the other and fails over in the case of primary site failure. Fail-over will occur in less than three minutes. The Notification Services email servers are located in both London and Canada. Facsimile are sent from servers located in the United States. SMS service is available via aggregators who may route SMS through multiple countries before final delivery to a local SMS provider. Additionally, routine daily backups are performed, encrypted and transmitted to a secure off site location to ensure Customer data can be recovered from the previous 24 hours.

### Telephony Servers:

The Notification Services telephony servers are hosted at redundant sites currently located in San Diego, CA; Irvine, CA; Wood Dale, IL; and Ashburn, VA, London, and England. All telephony sites act as primary.

For avoidance of doubt, the sites specified above are the site locations as of the Effective Date and OnSolve may change the site locations in its discretion; provided, however, that OnSolve shall not change the site locations to countries outside of the territories specified above.

Telephony Performance. OnSolve will provide access to its Shared Telephony Port Pool, and, if specified on Exhibit A, the number of Reserved and/or Dedicated Telephony Ports for sending/receiving telephonic Notifications. Dedicated Telephony Ports are prioritized and allocated for the specific use by Customer. Reserved ports are ports that all OnSolve customers may use until a reserved port Customer sends a Notification. At that time the reserved port Customer will be allocated all of their ports. In the unlikely event that a port is already in use by another customer, it will immediately become a reserved port once the call(s) in progress terminates. Should any orders for Telephony Ports exceed OnSolve's available capacity at any time, OnSolve will allocate capacity on a basis OnSolve deems equitable and shall obtain the necessary additional capacity as soon as possible. All Notifications to one-way text devices or Notifications left on message machines/ voicemail will include a toll-free inbound telephone number, accessible within the US and Canada and a toll inbound telephone number accessible for international, Recipients to retrieve and respond to Notifications. All outbound or inbound telephonic Notifications require use of Telephony Ports when in progress. The Notification Services will determine if it has reached a machine (answering machine and/or voicemail) or human voice in less than two (2) seconds of the call connection with a 90% or better distinction rate.

Minimum Shared Telephony Port Pool Notification Attempts. The Services will maintain a minimum output volume for telephony Notifications at the rates specified below or better. Output is based on standard Notification configuration and average 30 second call duration.

Time Duration (Minutes)	Minimum Notification Attempts
-------------------------	-------------------------------

5	2,500
15	12,000
30	30,000
60	80,000

**Minimum Text Based Message Attempts.** The Services will maintain a minimum output volume for text based Notifications at the rates specified below or better. Output is based on standard Notification configuration for a combination of email, SMS, text pagers, etc., without attachments.

Time Duration (Minutes)	Minimum Notification Attempts
5	100,000
15	300,000
30	600,000
60	1,200,000

**Service Availability.** OnSolve will maintain application availability (“Uptime”) of 99.99% or better for the Notification Services. Scheduled or planned downtime shall be no greater than ten (10) minutes bi-weekly and shall happen during a regularly scheduled maintenance window during off-peak periods. OnSolve will notify Customer five (5) days prior to any change in schedule of the maintenance window. The current maintenance window is scheduled for the first (1<sup>st</sup>) and third (3<sup>rd</sup>) Saturday of each month between 5:00 PM to 5:00 AM Pacific Time. Actual scheduled or planned downtime will normally not exceed ten (10) minutes. OnSolve will make best efforts to perform maintenance with little to no downtime utilizing the redundant servers.

**Table A: Support for the Notification Services**

Coverage	Premium Support
<b>Error Correction</b>	Yes
<b>Maintenance Updates</b>	Yes
<b>Product Enhancements</b>	Yes
<b>Administrator Technical Support</b>	Yes
<b>Initiator Technical Support</b>	Yes
<b>Recipient Technical Support</b>	Yes
<b>Availability</b>	24 x 7 (including holidays)
<b>Training (Initiator/ Administrator)</b>	Unlimited Participation in Standard Scheduled Weekly Sessions
<b>Trouble Tickets</b>	Unlimited
<b>Live Operator Initiation/Activation</b>	Optional

### Optional Service

An OnSolve support representative can launch an existing Notification on behalf of Customer upon authentication that the caller is a legitimate system Initiator (“Initiation/Activation”). Initiation/Activation includes modification of the message body and following the Initiation/Activation the Initiator can call the OnSolve support representative back, up to 3 times per activation, to receive an update on the progress of the Notification. Authentication of caller means verification of the Initiator User ID and Telephony ID. If the Initiator does not know his/her Telephony ID then verification of two or more

device addresses from the Initiator profile will be required. The price of \$300 per Initiation/Activation will be invoiced within ten days following the Initiation/Activation.

**Error Correction**

Error Correction. Support Services include Error correction. "Error or Program Error" means failure of the Notification Services to materially conform to its Documentation, but excluding nonconformity resulting from Customer's misuse, improper use, or unauthorized change to the Notification Services. Errors are classified in Table B below.

**Table B: Error Classification**

Critical	High	Medium	Low
<p>The Notification Services are not operational and a work-around is not available. Critical Errors such as:</p> <ul style="list-style-type: none"> <li>Customer cannot access the Notification Services but has internet connectivity.</li> <li>Notifications are not being sent by the Notification Services when launched by the Customer.</li> <li>The Notification Services cause corruption or loss of data to the extent that the Notification Services are rendered unusable.</li> </ul>	<p>A major function in the Notification Services is not operational and no acceptable work-around is available, but Customer is able to do some work. High Errors such as:</p> <ul style="list-style-type: none"> <li>A critical function/feature is experiencing a reproducible problem, which causes major inconvenience to the user.</li> <li>Function/feature does not work as documented, no reasonable "work-around" exists and Customer has a critical need of the function/feature.</li> </ul>	<p>There is a loss of a function or resource in the Notification Services that does not seriously affect the Customer's operations or schedules. Medium Errors such as:</p> <ul style="list-style-type: none"> <li>An important function is experiencing an intermittent problem or a common "non-essential" operation is failing consistently.</li> <li>Function/feature doesn't work as documented but a reasonable "work-around" exists.</li> <li>An Installed Component fails but the Notification Services are still available.</li> </ul>	<p>All other issues with the Notification Services. Low Errors such as:</p> <ul style="list-style-type: none"> <li>Errors in the documentation or help files.</li> <li>User Interface improvements.</li> <li>The Notification Services do not operate strictly according to the specifications but do not impact the day to day use of the Notification Services.</li> <li>Questions that are general in nature and do not impact critical use of the Notification Services.</li> <li>Function/feature enhancement request.</li> </ul>

Error Classification. Upon identification of an Error, Customer will notify and provide OnSolve with sufficient information to locate and reproduce the Error. OnSolve will work with Customer to determine the classification of such Error.

Telephone Support. Where applicable, OnSolve will provide telephone assistance to Customer for the Notification Services in accordance with the response and resolution targets set forth in Table C. Such services include: (a) clarification of functions and features of the Notification Services, (b) clarification of any documentation (including, if applicable, WebServices API documentation) pertaining to the Notification Services, (c) guidance in the operation of the Notification Services, and (d) Error verification, analysis and code corrections, as necessary, to cause the Notification Services to perform substantially in accordance with the most current documentation and/or help files.

Service Level Objectives. OnSolve and Customer acknowledge the potentially idiosyncratic nature of any Error in the Notification Services, and not all Errors, including without limitation, support for a particular protocol will be corrected. OnSolve will use all reasonable commercial efforts to attempt to resolve any problems within the target times specified in Table C, but failure to meet target times will not constitute a failure to perform a material provision of this Exhibit C.

**Table C: Response and Resolution Targets**

Error Severity	Initial Response* (business hours)	Activity	Target Resolution** (business days)	Resolution Method
Critical	1/2	Continuous effort	4	As Specified Below
High	4	Continuous during business hours	10	As Specified Below

Medium	6	Business hours	30	As Specified Below
Low	None	As required	None	As needed

Resolution Methods.

\*Initial Response shall include workarounds and/or system patches to restore the Notification Services availability.

\*\*Target Resolution includes root cause analysis, problem identification, system modifications, and production rollout of the permanent fix of the identified error to the Notification Services.

**Customer Obligations. Customer will:**

- a) Document and promptly report Errors or malfunctions of the Notification Services to OnSolve. Customer will take all necessary steps to carry out procedures provided by OnSolve for the correction of such Errors or malfunctions within a reasonable time;
- b) Properly train its personnel in the use of the Notification Services.

End Exhibit C

## EXHIBIT D – ACCEPTABLE USE POLICY

### 1. General Terms.

1.1 All Notification Content is Customer's sole responsibility. Customer is solely responsible for the integrity and quality of the Notification Content. If Notification Content templates are furnished by OnSolve it's for Customer's convenience only; any Notification Content generated from such templates is Customer's sole responsibility.

1.2 Customer shall be responsible for procuring any necessary consents with respect to the provision of any data transmitted through OnSolve.

1.3 Customer will use and permit its Users to use the Notification Services in accordance with this Agreement and all Applicable Laws.

1.4 Customer will not send any Short Message Service ("SMS") Notifications to a User unless Customer has obtained such User's "opt-in" consent.

1.5 Customer must provide Users with a simple mechanism for opting out of or unsubscribing from receiving SMS messages, including information on how to "opt-out" or unsubscribe.

1.6 Customer will not send Notifications to phone numbers that are emergency numbers and other numbers that may not be called using an automated system under Applicable Law.

1.7 Customer will not send any Notification Content that it knows, or has reason to know, infringes another's rights in intellectual property, is invasive of another's right to privacy, or violates any privacy laws, Customer's privacy policies or any other third parties or do anything that would justify a complaint to the Federal Communications Commission.

1.8 Customer will not:

(i) engage or facilitate any unethical, deceptive or misleading practices in connection with the use of the Notification Services;

(ii) use the Notification Services in connection with any junk email, junk phone messages, spamming or any unsolicited messages (commercial or otherwise); or

(iii) provide, or knowingly allow any third parties to provide, content or other material to be transmitted in connection with or through the Notification Services which: is defamatory, libelous, obscene, pornographic or is harmful to minors; promotes violence, discrimination, illegal activities, gambling, alcoholic beverages, guns or tobacco; contains viruses, worms, cancelbots or any other harmful code or computer programs designed to disrupt the functionality of any computer software or hardware or telecommunications equipment.

1.9 Customer may send SMS in text format only. No binary SMS messaging is allowed.

1.10 Customer acknowledges and agrees that Notifications sent via SMS may not be delivered to the phone if not in range of a transmission site, or if sufficient network capacity is not available at a particular time. Even within a coverage area, factors beyond the control of the wireless carrier may interfere with message delivery, including the customer's equipment, terrain, proximity to buildings, foliage, and weather. Customer acknowledges that urgent Notifications may not be timely received and that the wireless carrier does not guarantee that messages will be delivered.

1.11 Customer acknowledges that OnSolve may block SMS messages based on instructions from carriers. In the event that Customer requests that OnSolve permit SMS messages to go to any such blocked numbers, Customer shall indemnify and, at OnSolve's request, defend OnSolve with respect to any claim made by a third party with respect to such message.

2. Terms Applicable to GIS Service. In the event that the Notification Services include OnSolve's geographic information system functionality ("**GIS Service**"), Customer agrees to the terms set forth in documents found at the following links:

(i) Google's Legal Notices ([http://maps.google.com/help/legalnotices\\_maps.html](http://maps.google.com/help/legalnotices_maps.html));

(ii) Google's Acceptable Use Policy (AUP) ([http://maps.google.com/help/legalnotices\\_maps.html](http://maps.google.com/help/legalnotices_maps.html));

(iii) Google's Maps Terms ([http://maps.google.com/help/terms\\_maps.html](http://maps.google.com/help/terms_maps.html))