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Header @ 5

List View

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

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 Procurement Type: Central Master Agreement  
 Vendor ID: VC0000047621   
 Legal Name: LIVEU INC  
 Alias/DBA:  
 Total Bid: \$231,719.00  
 Response Date: 05/22/2023   
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 Responded By User ID: LiveUInc   
 First Name: Maria  
 Last Name: McDowell  
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 Solicitation Description: Addendum No 2-EBAr71873 IP-based broadcast equipment and svc  
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Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
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**State of West Virginia  
 Solicitation Response**

**Proc Folder:** 1213716  
**Solicitation Description:** Addendum No 2-EBAr71873 IP-based broadcast equipment and svc  
**Proc Type:** Central Master Agreement

Solicitation Closes	Solicitation Response	Version
2023-05-23 13:30	SR 0439 ESR05222300000005877	1

**VENDOR**  
 VC0000047621  
 LIVEU INC

**Solicitation Number:** CRFQ 0439 EBA2300000005  
**Total Bid:** 231719 **Response Date:** 2023-05-22 **Response Time:** 08:55:42  
**Comments:** Hardcopy of our Bid response has also been submitted via FedEx. Tracking number 398539073073

**FOR INFORMATION CONTACT THE BUYER**  
 Toby L Welch  
 (304) 558-8802  
 toby.l.welch@wv.gov

<b>Vendor Signature X</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	BROADCAST OVER IP SERVICES				231719.00

Comm Code	Manufacturer	Specification	Model #
83111601			

**Commodity Line Comments:**

**Extended Description:**

Vendor must complete Exhibit A Pricing page in its entirety and submit it with their bid. Please see Section 4.2 of the RFQ Specifications for more information.  
Vendors should enter the Total Bid Amount from pricing page into the commodity line.

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: CRFQ EBA 23-005**

**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)

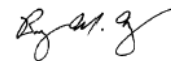
- |                                                    |                                          |
|----------------------------------------------------|------------------------------------------|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input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

LiveU, Inc.

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Company



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Authorized Signature

May 19, 2023

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Date

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

Revised 6/8/2012

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## SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the WV Educational Broadcasting Authority (Agency) to establish an open-end contract for Remote Broadcasting Equipment and services.
  
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1 **2SI (2 SAMPLE INTERLEAVE):** a method to map a 4K image to four sub-images. 2SI is defined in SMPTE ST-435-1. Each sample in a 2×2 block is put in a different sub-image. Each sub-image contains the full image, down sampled by a factor of 2 in horizontal and vertical direction.
  - 2.2 **2.4/5 GHZ FREQUENCIES:** these numbers refer to two different “bands” that your Wi-Fi can use for its signal. The biggest difference between the two is speed. Under ideal conditions, 2.4 GHz Wi-Fi will support up to 300 Mbps, depending on the class of the router. 5 GHz Wi-Fi will support up to 1300 Mbps.
  - 2.3 **4G:** the fourth generation of broadband cellular network technology that must provide capabilities defined by [ITU](#) in [IMT Advanced](#).
  - 2.4 **4K RESOLUTION:** any video resolution with a horizontal pixel count of approximately 4,000.
  - 2.5 **5G:** the fifth generation of broadband cellular network technology. The industry consortium setting standards for 5G, the 3rd Generation Partnership Project (3GPP), defines "5G" as any system using 5G NR (5G New Radio) software
  - 2.6 **802.11AC/B/G/N WIFI STANDARDS:** IEEE 802.11 is part of the IEEE 802 set of local area network (LAN) technical standards, and specifies the set of media access control (MAC) and physical layer (PHY) protocols for implementing wireless local area network (WLAN) computer communication.
  - 2.7 **8/10-BIT ENCODING:** in an 8-bit binary video file there are 256 possible exposure representations available across the entire spectrum, starting from absolute black to super white. in a 10-bit binary video file there are 1,024 possible exposure representations available across the entire spectrum.
  - 2.8 **ADAPTIVE BIT RATE (ABR):** a video streaming technique that detects a user’s bandwidth and device capacity and adjusts the quality of the stream in real time.



- 2.9 BONDED TRANSMISSION:** combining multiple cellular, ethernet and wireless network connections, like the 2G, 3G, 4G LTE and Wi-Fi to obtain a standard reliable and robust video uplink
- 2.10 CELLULAR DATA USAGE:** the amount of data you use in a billing cycle. Data is used whenever any task is performed using the cellular service. For example, if a one megabit file is downloaded using the service, one megabit of data has been used. Another example would be if a video stream is encoded at 10 megabit per second and it is streamed for 10 seconds, it would use 100 megabits of data.
- 2.11 CELLULAR POOLED DATA:** pooled data plans are where the data limits for multiple plans on multiple devices is aggregated and shared among all the devices. For example, if four devices each had 50 gigabyte data plans, they would pull from a 200 gigabyte pool of shared data. No overage charges would be applied until all 200 gigabytes were used regardless of the device using them.
- 2.12 CELLULAR PRIORITY (OR PREMIUM) DATA SERVICE:** priority/premium data is an allotment of cellular data that receives higher priority on the network. This means when the network is busy, customers who have priority data plans will have faster speeds than customers who do not. Each provider has different levels of network priority. These levels of priority are controlled by a network setting called Quality of Service Class Identifiers, or [QCI values](#) for short. Each QCI value corresponds to a level of priority on the network. QCI range from 1 to 9, where 1 has the highest priority and 9 has the lowest priority.
- 2.13 CONTENT DELIVERY NETWORK (CDN):** a type of distributed computing infrastructure, where devices (servers or appliances) reside in multiple points of presence on multi-hop packet-routing networks, such as the Internet, or on private WANs.
- 2.14 “CONTRACT ITEM” OR “CONTRACT ITEMS”:** the list of items identified in Section 3.1 below and on the Pricing Pages.
- 2.15 FORWARD ERROR CORRECTION (FEC):** a digital signal processing technique used to enhance data reliability. It does this by introducing redundant data, called error correcting code, prior to data transmission or storage. FEC provides the receiver with the ability to correct errors without a reverse channel to request the retransmission of data.
- 2.16 GPS:** an accurate worldwide navigational and surveying facility based on the reception of signals from an array of orbiting satellites.
- 2.17 HD (HIGH DEFINITION):** High-definition video is video of higher resolution and quality than standard-definition. While there is no standardized meaning for high-definition, generally any

video image with considerably more than 480 vertical lines (North America) or 576 vertical lines (Europe) is considered high-definition.

- 2.18 HDMI:** High-Definition Multimedia Interface) is a proprietary audio/video interface for transmitting uncompressed video data and compressed or uncompressed digital audio data from an HDMI-compliant source device.
- 2.19 HDR (HIGH DYNAMIC RANGE):** High-dynamic-range television (HDR or HDR-TV) is a technology that improves the quality of display signals. It is contrasted with the retroactively-named standard dynamic range (SDR). HDR changes the way the luminance and colors of videos and images are represented in the signal, and allows brighter and more detailed highlight representation, darker and more-detailed shadows, and a wider array of more intense colors. HDR allows compatible displays to receive a higher quality image source. It does not improve a display's intrinsic properties (brightness, contrast, and color capabilities).
- 2.20 HEVC/H.264:** H.264 (AVC) and H.265 (HEVC) are both standards for video compression used in recording and distributing digital video. H.264 processes frames of video using macroblocks, while H.265 processes information using coding tree units (CTUs). CTUs process information more efficiently, which results in a smaller file size and less bandwidth used for your streamed video.
- 2.21 IP (INTERNET PROTOCOL) SATELLITE:** Satellite Internet access refers to Internet access provided through satellites. In other words, it is a telecommunications network provided by orbital communications satellites. Signals from these satellites allow a user with a dish to have a high-speed internet connection.
- 2.22 METADATA:** data that provides information about other data such as audio/video files, streams, encoding, decoding, etc.
- 2.23 MICROSOFT AZURE ACTIVE DIRECTORY:** a cloud based service that provides management of Windows domain networks, including management and authentication of users and user groups.
- 2.24 MIL-STD-810G METHOD 514.6 CATEGORY 4 STANDARDS:** Tests vibration a unit might experience over its useful life, includes four procedures for different modes of vibration, tests for chafing wires, cracked solder joints, material failures, loose parts and more.
- 2.25 MIMO ANTENNA:** a method for multiplying the capacity of a radio link using multiple transmission and receiving antennas to exploit multipath propagation
- 2.26 MPEG-TS:** MPEG transport stream (MPEG-TS, MTS) or simply transport stream (TS) is a standard digital container format for transmission and storage of audio, video, and Program

and System Information Protocol (PSIP) data. It is used in broadcast systems such as DVB, ATSC and IPTV.

- 2.27 MULTI-CAMERA:** a method of filmmaking and video production where several cameras are employed on the set and simultaneously record or broadcast a scene.
- 2.28 NDI:** NewTek's Network Device Interface (NDI) standard for an efficient and cost-effective live production IP workflow solution
- 2.29 "PRICING PAGES":** the schedule of prices, estimated order quantity, and totals contained in wvOASIS, provided Excel spreadsheet, or attached hereto as Exhibit A, and used to evaluate the Solicitation responses.
- 2.30 PRODUCTION-LEVEL:** a term used to describe the quality and complexity of video production.
- 2.31 PTZ CAMERA:** A device upon which a camera can be mounted or an integrated camera assembly that allows movement in both the azimuth (pan) and in the vertical plane (tilt) and zoom.
- 2.32 RESOLUTIONS:** PAL – the. NTSC – the. 720p50/60/25/30 – the. 1080p50/60/25/30/24 – the. 1080i50/60 – the. 4Kp50/60/25/30/24 – the. The display resolution or display modes of digital television being the number of distinct pixels in each dimension that can be displayed.
- 2.33 RTMP:** Real-Time Messaging Protocol, a multimedia streaming and remote procedure call protocol primarily used in Adobe Flash.
- 2.34 SD CARD:** a proprietary non-volatile flash memory card format developed for use in portable devices.
- 2.35 SDI:** stands for Serial Digital Interface and is a transmission protocol for sending uncompressed digital video signals using a 75 Ohm coaxial cable.
- 2.36 SIMULTANEOUS BONDING:** refers to combining two or more connections, simultaneously
- 2.37 SMPTE-2110:** ST 2110 is a suite of standards developed by the Society of Motion Picture and Television Engineers (SMPTE) that define professional media over an IP network. The standards describe how video, audio, and ancillary data should be packaged and transported over an IP link and maintain synchronization and quality.
- 2.38 "SOLICITATION":** the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

**2.39 USB 2.0/3.0/C:** an external interface used on computers and other digital devices to transfer data through a cable.

**2.40 V-MOUNT CAMERA:** a camera that uses a plate with a V-shaped locking mechanism to attach batteries and other accessories.

### **3. GENERAL REQUIREMENTS:**

**3.1 CONTRACT ITEMS AND MANDATORY REQUIREMENTS:** Vendor shall provide Agency with the Contract Items listed below on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.

#### **3.1.1 GENERAL REQUIREMENTS FOR ALL EQUIPMENT**

**3.1.1.1** All equipment must be from the same manufacturer

**3.1.1.2** All specifications are for single units. Vendor may not meet specifications by daisy-chaining or connecting units together.

**3.1.1.3** All equipment prices must include 24x7x365 comprehensive maintenance and support for the first year at no additional cost which must include:

**3.1.1.3.1** Hardware maintenance:

**3.1.1.3.1.1** equipment updates and advanced hardware replacement as necessary

**3.1.1.3.1.1.1** Vendor must provide advanced hardware replacement units if Agency's equipment is deemed defective and/or in need of repair/replacement.

**3.1.1.3.1.1.2** Replacement unit must be shipped same or next business day to arrive in the next two business days upon notification that equipment is deemed defective and/or in need of repair/replacement.

**3.1.1.3.1.1.3** Vendor will pay for shipping charges for advance replacement units.

**3.1.1.3.1.1.4** Vendor will provide a return label for the return of defective/replaced equipment.

3.1.1.3.1.2 Hardware firmware/operating system updates

3.1.1.3.1.3 Operational support for the use of the equipment

3.1.1.3.2 Software maintenance:

3.1.1.3.2.1 Security and operating system updates as needed

3.1.1.3.2.2 Operational support for the use of the software

3.1.1.4 All remote broadcast equipment must support wired as well as 5G/4G bonded transmission

3.1.1.5 All equipment must be operationally similar:

3.1.1.5.1 Programming, configuration, and operating interfaces must be sufficiently similar such that an Operator can move between equipment with little to no difference in the operational requirements

3.1.1.5.2 Labels and other descriptive text on the equipment and software must be sufficiently similar such that an Operator can move between equipment with no confusion as to their meaning

**3.1.2 CONTRACT ITEM# 1: LIVEU LU800A-PRO - MULTI-CAMERA PRODUCTION-LEVEL FIELD UNIT FOR LIVE TELEVISION BROADCASTING, OR EQUIVALENT**

3.1.2.1 Audio: must have a minimum of 8 audio channels

3.1.2.2 Video:

3.1.2.2.1 Must support input from a minimum of four (4) cameras without additional hardware or software upgrades

3.1.2.2.2 Resolution – see “Resolutions” in Section 2, Definitions. Must support:

3.1.2.2.2.1 PAL

3.1.2.2.2.2 NTSC

3.1.2.2.2.3 720p50/60/25/30

3.1.2.2.2.4 1080p50/60/25/30/24

3.1.2.2.2.5 1080i50/60

3.1.2.2.2.6 4Kp50/60/25/30 and must be upgradeable to 4Kp24

3.1.2.2.3 Must support HDR video

3.1.2.2.4 Encoding:

- 3.1.2.2.4.1 Must provide both 8-bit and 10-bit encoding
- 3.1.2.2.4.2 Must support H.265/HEVC and H.264 (AVC) video encoding
- 3.1.2.2.4.3 Must output video streams of up to a minimum of 70 Mbps (Mega-bits per second)
- 3.1.2.2.4.4 Must be able to record files at a high quality and constant bitrate while simultaneously transmitting live video adaptively. Files must be stored on the internal storage. Recorded files can be uploaded to the station/studio after the live transmission end.

3.1.2.2.5 Transmitting:

- 3.1.2.2.5.1 must be capable of transmitting multiple video streams to multiple targets simultaneously:
- 3.1.2.2.5.2 Must be able to transmit for output via SDI//NDI, SRT (Listener/Caller), RTP and H.264 RTMP/MPEG-TS streams.

3.1.2.2.6 Video Interfaces:

- 3.1.2.2.6.1 Must have a minimum of four (4) SDI interfaces
- 3.1.2.2.6.2 Each set of four (4) SDI interfaces must operate as either one (1) 12G-SDI interface or four (4) 3G-SDI interfaces

3.1.2.3 Network:

- 3.1.2.3.1 Wired: Must have a minimum of two (2) Gigabit wired Ethernet connections
- 3.1.2.3.2 WiFi: Must have a minimum of two (2) WiFi interfaces
  - 3.1.2.3.2.1 Must work on at least 2.4 and 5 GHz frequencies
  - 3.1.2.3.2.2 Must meet at least 802.11ac/b/g/n standards
  - 3.1.2.3.2.3 Must have a minimum of two (2) internal MIMO antennas
- 3.1.2.3.3 Cellular:
  - 3.1.2.3.3.1 Must have a minimum of four (4) internal 5G/4G dual-SIM cellular modems and four (4) 4G dual-SIM cellular modems
  - 3.1.2.3.3.2 Must have ability to add a minimum of two (2) additional external cellular modems
  - 3.1.2.3.3.3 Antennas:
    - 3.1.2.3.3.3.1 Must have a minimum of eight (8) high-efficiency internal cellular antennas
    - 3.1.2.3.3.3.2 Must include a minimum of eight (8) external cellular antenna connections

**3.1.2.3.3.3.3** All antennas must support all common wireless frequencies including sub 6 GHz, 5G, and LTE

**3.1.2.3.4** Cellular Service:

**3.1.2.3.4.1** Must support IP Satellite

**3.1.2.3.4.2** Must be provided by Vendor. See section 3.1.8.

**3.1.2.3.5** Simultaneous Bonding:

**3.1.2.3.5.1** Must be able to simultaneously bond a minimum of fourteen (14) network links including all internal and external cellular links, internal WiFi links, and external Ethernet links

**3.1.2.3.5.2** Vendor's destination/decoding equipment must be capable of ingesting and interpreting this bonded data.

**3.1.2.4** Interfaces – must have a minimum of:

**3.1.2.4.1** One (1) full size SD Card slot

**3.1.2.4.2** One (1) HDMI out interface

**3.1.2.4.3** One (1) USB 2.0 interface

**3.1.2.4.4** One (1) USB 3.0 interface

**3.1.2.4.5** One (1) USB-C interface

**3.1.2.4.6** Two (2) Gigabit Ethernet interfaces

**3.1.2.4.7** One (1) audio jack in interface

**3.1.2.4.8** One (1) audio jack out interface

**3.1.2.4.9** Eight (8) external connectors for cellular antennas

**3.1.2.5** Must have a minimum of one capacitive LCD touch screen with a minimum diagonal viewing measurement of seven (7) inches

**3.1.2.6** Control and Monitoring:

**3.1.2.6.1** Must provide return/monitoring audio and video feeds using the attached touch screen or an external display connected to a port on the unit

**3.1.2.6.2** Must be able to monitor and control unit using attached touch screen

**3.1.2.6.3** Must be able to remotely control unit using a mobile app that must be available for both Apple and Android devices

**3.1.2.6.4** Must be manageable using Vendor's Central Management System, see section 3.1.9

**3.1.2.7** Quality Control:

3.1.2.7.1 Must include automatic Forward Error Correction (FEC)

3.1.2.7.2 Must include automatic Adaptive Bit Rate (ABR)

3.1.2.8 Power inputs:

3.1.2.8.1 Must have a minimum of one (1) input for a standard power supply – power supply must be included with the unit

3.1.2.8.2 Must have a minimum of one (1) input for an external battery. See section 3.1.7.

3.1.2.9 Portability:

3.1.2.9.1 Must be able to be fully contained within an included, professional-grade backpack

3.1.2.9.2 Must include a wired remote control

3.1.2.9.3 Must include a car cradle

3.1.2.10 Vendor must provide rental units:

3.1.2.10.1 **Except for shipping**, rental costs must be all inclusive. Must incorporate all costs including, but not limited to:

3.1.2.10.1.1 Rental of unit

3.1.2.10.1.2 Cost of cellular service

3.1.2.10.1.3 All taxes, fees, or other charges

3.1.2.10.2 Vendor must provide both one-week and one-month rentals

3.1.2.10.3 **Shipping:**

3.1.2.10.3.1 **Agency will pay Vendor's cost for both delivery and return shipping for rental units**

3.1.2.10.3.2 **Vendor must ship rental units via the carrier providing the lowest cost meeting delivery deadlines**

3.1.2.10.3.3 **Vendor must provide a copy of their invoice from the shipping carrier to verify costs in order to receive reimbursement**

3.1.3 **CONTRACT ITEM# 2: LIVEU LU300S - SMALL-SIZED PORTABLE 5G VIDEO TRANSMISSION SOLUTION FOR BROADCAST OPERATIONS, OR EQUIVALENT**

3.1.3.1 Must be compatible with V-mount cameras



**3.1.3.2** Audio: must support a minimum of 8 audio channels

**3.1.3.3** Video:

**3.1.3.3.1** Must support input from a minimum of one (1) camera

**3.1.3.3.2** Resolution – see “Resolutions” in Section 2, Definitions.

Must support:

**3.1.3.3.2.1** PAL

**3.1.3.3.2.2** NTSC

**3.1.3.3.2.3** 720p50/60

**3.1.3.3.2.4** 1080p50/60/25/30/24

**3.1.3.3.2.5** 1080i50/60

**3.1.3.3.2.6** 4Kp50/60/25/30/24

**3.1.3.3.3** Encoding:

**3.1.3.3.3.1** Must provide 8-bit encoding and be upgradeable to 10-bit encoding

**3.1.3.3.3.2** Must support H.265/HEVC and H.264 (AVC) video encoding

**3.1.3.3.3.3** Must output video streams of up to a minimum of 30 Mbps (Mega-bits per second)

**3.1.3.3.3.4** Must be able to store encoder output to local unit storage: must be able to store output while also streaming, and must be able to simply store the output to be forwarded or transferred later

**3.1.3.3.4** Interfaces:

**3.1.3.3.4.1** Must have a single (1) SDI interface

**3.1.3.3.4.2** SDI interface must operate as either one (1) 12G-SDI interface or one (1) 3G-SDI interface

**3.1.3.3.4.3** Must have a minimum of one (1) HDMI 2.0 interface

**3.1.3.4** Network:

**3.1.3.4.1** Wired: Must have a minimum of one (1) Gigabit wired Ethernet connections

**3.1.3.4.2** WiFi: Must have a minimum of one (1) WiFi interface

**3.1.3.4.2.1** Must work on at least 2.4 and 5 GHz frequencies

**3.1.3.4.2.2** Must meet at least 802.11a/b/g/n/ac standards

**3.1.3.4.2.3** Must have a minimum of one (1) internal MIMO antenna

**3.1.3.4.3** Cellular:

**3.1.3.4.3.1** Must have a minimum of two (2) internal 5G/4G dual-SIM cellular modems

**3.1.3.4.3.2** Must have ability to add a minimum of two (2) additional external cellular modems

**3.1.3.4.3.3** Antennas:

**3.1.3.4.3.3.1** Must have a minimum of two (2) high-efficiency internal cellular antennas

**3.1.3.4.3.3.2** All antennas must support all common wireless frequencies including sub 6 GHz, 5G, and LTE

**3.1.3.4.4** Cellular Service:

**3.1.3.4.4.1** Must support IP Satellite

**3.1.3.4.4.2** Must be provided by Vendor. See section 3.1.8

**3.1.3.4.5** Simultaneous Bonding:

**3.1.3.4.5.1** Must be able to simultaneously bond a minimum of six (6) network links including all internal and external cellular links, internal WiFi links, and external Ethernet links

**3.1.3.4.5.2** Vendor's destination/decoding equipment must be capable of ingesting and interpreting this bonded data.

**3.1.3.5** Interfaces – must have a minimum of:

**3.1.3.5.1** One (1) micro-SD Card slot

**3.1.3.5.2** One (1) 12G/3G/HD/SD SDI interface

**3.1.3.5.3** One (1) HDMI 2.0 interface

**3.1.3.5.4** Two (2) USB 2.0 interfaces

**3.1.3.5.5** One (1) micro-USB interface

**3.1.3.5.6** One (1) Gigabit Ethernet interfaces

**3.1.3.5.7** One (1) 3.5 mm in/out audio jack interface

**3.1.3.6** Must have a minimum of one display screen with a minimum diagonal viewing measurement of two point two (2.2) inches

**3.1.3.7** Control and Monitoring:

**3.1.3.7.1** Must provide monitoring video previews using the attached 2.2" display and user-friendly rotating jog

**3.1.3.7.2** Must be able to monitor and control unit using attached 2.2" display and user-friendly rotating jog

**3.1.3.7.3** Must be manageable using Vendor's Central Management System, see section 3.1.9

**3.1.3.8** Quality Control:

3.1.3.8.1 Must include automatic Forward Error Correction (FEC)

3.1.3.8.2 Must include automatic Adaptive Bit Rate (ABR)

3.1.3.9 Power inputs: must have a minimum of one power input

3.1.3.9.1 Must accept a standard power supply – power supply must be included with the unit

3.1.3.9.2 Must accept an AC/DC adapter or external battery (see section 3.1.7)

3.1.3.10 Portability:

3.1.3.10.1 Must be able to be fully contained within an included, professional-grade shoulder pack

3.1.3.10.2 Must have an option for a camera mount

3.1.3.10.3 Must have an option for a belt pack

3.1.3.11 Vendor must provide rental units:

3.1.3.11.1 **Except for shipping**, rental costs must be all inclusive. Must incorporate all costs including, but not limited to:

3.1.3.11.1.1 Rental of unit

3.1.3.11.1.2 Cost of cellular service

3.1.3.11.1.3 All taxes, fees, or other charges

3.1.3.11.2 Vendor must provide both one-week and one-month rentals

3.1.3.11.3 **Shipping:**

3.1.3.11.3.1 **Agency will pay Vendor's cost for both delivery and return shipping for rental units**

3.1.3.11.3.2 **Vendor must ship rental units via the carrier providing the lowest cost meeting delivery deadlines**

3.1.3.11.3.3 **Vendor must provide a copy of their invoice from the shipping carrier to verify costs in order to receive reimbursement**

3.1.4 **CONTRACT ITEM# 3: LIVEU LU4000 - 4K/QUAD HD RACK-MOUNT DECODER FOR THE RECEIVE, DECODE, PLAYOUT AND STREAM OF HEVC/H.264 4K OR MULTI-CAMERA VIDEO FEEDS, OR EQUIVALENT.**

3.1.4.1 Video:

3.1.4.1.1 Must support input from a minimum of four (4) cameras without additional hardware or software upgrades

**3.1.4.1.2** Must support a single high bitrate 4K transmission over 12G-SDI as well as up to four (4) full HD transmissions over four (4) 3G/HD/SD SDI

**3.1.4.1.3** Resolution – see “Resolutions” in Section 2, Definitions. Must support:

**3.1.4.1.3.1** PAL

**3.1.4.1.3.2** NTSC

**3.1.4.1.3.3** 720p50/60/30/25/24

**3.1.4.1.3.4** 1080p50/60/25/30/24

**3.1.4.1.3.5** 1080i50/60

**3.1.4.1.3.6** 2160P60/50/30/25/24

**3.1.4.1.4** Decoding:

**3.1.4.1.4.1** Must decode H.264/HEVC video

**3.1.4.1.4.2** Must deliver video streams to multiple SDI and/or IP destinations simultaneously

**3.1.4.1.4.3** Must be able to transport for output via SDI/NDI, SRT (Listener/Caller), RTP and H.264 RTMP/MPEG-TS streams

**3.1.4.1.4.4** Must dynamically adjust bitrate and quality for optimum stream quality

**3.1.4.1.4.5** Must be able to store decoder output to local unit storage: must be able to store output while also streaming, and must be able to simply store the output to be forwarded or transferred later

**3.1.4.2** Interfaces:

**3.1.4.2.1** Must have a minimum of four (4) SDI interfaces

**3.1.4.2.2** Each set of four (4) SDI interfaces must operate as either one (1) 12G-SDI interface or four (4) 3G-SDI interfaces

**3.1.4.2.3** Must have a minimum of two (2) Gigabit wired Ethernet connections

**3.1.4.3** Control and Monitoring:

**3.1.4.3.1** Must be able to receive multiple feeds for preview from which the operator can choose for output/broadcast

**3.1.4.3.2** Must be manageable using Vendor’s Central Management System, see section 3.1.9

**3.1.4.4** Power input: must be 110 to 240 volts at 50 to 60 Hertz

**3.1.5 CONTRACT ITEM# 4: LIVEU LU810A-M5G, 4K, MULTI-CAMERA RACKMOUNT CONTRIBUTION ENCODER FOR VEHICLES AND FIXED LOCATIONS, OR EQUIVALENT**

**3.1.5.1** Audio: must have a minimum of 16 audio channels

**3.1.5.2** Video:

**3.1.5.2.1** Must support input from a minimum of four (4) cameras without additional hardware or software upgrades

**3.1.5.2.2** Resolution – see “Resolutions” in Section 2, Definitions. Must support:

**3.1.5.2.2.1** PAL

**3.1.5.2.2.2** NTSC

**3.1.5.2.2.3** 720p50/60

**3.1.5.2.2.4** 1080p50/60/25/30/24

**3.1.5.2.2.5** 1080i50/60

**3.1.5.2.2.6** 4Kp50/60/25/30/24

**3.1.5.2.3** Must be upgradeable to support HDR video

**3.1.5.2.4** Encoding:

**3.1.5.2.4.1** Must provide 8-bit encoding and be upgradeable to 10-bit encoding

**3.1.5.2.4.2** Must encode H.265/HEVC and H.264 video

**3.1.5.2.4.3** Must be capable of encoding either four (4) 1080P streams or one (1) 4k stream

**3.1.5.2.4.4** Must output video streams of up to a minimum of 50 Mbps (Mega-bits per second)

**3.1.5.2.4.5** Must be able to store encoder output to local unit storage: must be able to store output while also streaming, and must be able to simply store the output to be forwarded or transferred later

**3.1.5.2.5** Transmission:

**3.1.5.2.5.1** must be capable of outputting video streams to multiple targets simultaneously:

**3.1.5.2.5.2** Must be able to transport for output via SDI, //NDI, SRT (Listener/Caller), RTP, and H.264, RTMP/MPEG-TS streams

**3.1.5.2.5.3** Must be capable of persistent transmission:

**3.1.5.2.5.3.1** Must provide a stable 24/7 stream

**3.1.5.2.5.3.2** Must be able to activate the unit from anywhere once powered up

**3.1.5.2.6** Interfaces:

**3.1.5.2.6.1** Must have a minimum of one (1) 12G SDI interfaces

**3.1.5.2.6.2** Must have a minimum of three (3) 3G/HD/SD-SDI interfaces

**3.1.5.2.6.3** Must have a minimum of one (1) HDMI out interfaces

**3.1.5.3** Network:

**3.1.5.3.1** Wired: Must have a minimum of two (2) Gigabit wired Ethernet connections

**3.1.5.3.2** WiFi: Must have a minimum of one (1) WiFi interfaces

**3.1.5.3.2.1** Must work on at least 2.4 and 5 GHz frequencies

**3.1.5.3.2.2** Must meet at least 802.11ac/a/b/g/n standards

**3.1.5.3.2.3** Must have a minimum of one (1) internal MIMO antenna

**3.1.5.3.3** Cellular:

**3.1.5.3.3.1** Must have a minimum of four (4) internal 5G/4G dual-SIM cellular modems and two (2) 4G dual-SIM cellular modems

**3.1.5.3.3.2** Antennas:

**3.1.5.3.3.2.1** Must include a minimum of six (6) external cellular antenna connections

**3.1.5.3.3.2.2** All antennas must support all common wireless frequencies including sub 6 GHz, 5G, and LTE

**3.1.5.3.4** Cellular Service:

**3.1.5.3.4.1** Must support IP Satellite

**3.1.5.3.4.2** Must be provided by Vendor. See section 3.1.8

**3.1.5.3.5** Simultaneous Bonding:

**3.1.5.3.5.1** Must be able to simultaneously bond a minimum of nine (9) network links including all internal and external cellular links, internal WiFi links, IP Satellite links, and Ethernet links

**3.1.5.3.5.2** Vendor's destination/decoding equipment must be capable of ingesting and interpreting this bonded data.

**3.1.5.4** Interfaces – must have a minimum of:

**3.1.5.4.1** Must have a minimum of one (1) 12G SDI interfaces

**3.1.5.4.2** Must have a minimum of three (3) 3G/HD/SD-SDI interfaces

**3.1.5.4.3** Must have a minimum of two (2) USB 2.0 interfaces

**3.1.5.4.4** Must have a minimum of one (1) 3.5 mm audio jacks

**3.1.5.4.5** Must have a minimum of one (1) min-XLR audio out interfaces

**3.1.5.4.6** Must have a minimum of one (1) HDMI out interfaces

- 3.1.5.4.7 Must have a minimum of one (1) full size SD card slots
- 3.1.5.4.8 Must have a minimum of six (6) external connectors for cellular antennas

3.1.5.5 Must have a minimum of one screen with a minimum diagonal viewing measurement of 2.2 inches and a means of locally controlling unit

3.1.5.6 Control and Monitoring:

- 3.1.5.6.1 Must be able to monitor and control unit using attached 2.2" screen and user-friendly rotating jog controller
- 3.1.5.6.2 Must be able to monitor and control unit using Vendor's Central Management System, see section 3.1.9

3.1.5.7 Quality Control:

- 3.1.5.7.1 Must include automatic Forward Error Correction (FEC)
- 3.1.5.7.2 Must include automatic Adaptive Bit Rate (ABR)

3.1.5.8 Power inputs:

- 3.1.5.8.1 Must have a minimum of one (1) input for a standard 100 to 240 volts AC power supply – power supply must be included with the unit
- 3.1.5.8.2 Must have a minimum of one (1) input for a 12 to 19 volt DC power source.

3.1.5.9 Portability:

- 3.1.5.9.1 Must be suitable for use in both vehicle and fixed location production facilities
- 3.1.5.9.2 Must have an operating temperature range between twenty-three (23) degrees and one-hundred and thirteen (113) degrees Fahrenheit
- 3.1.5.9.3 Must be certified to function at vibration levels meeting or exceeding those of the MIL-STD-810G method 514.6 category 4 standards.
- 3.1.5.9.4 Must have a minimum of one (1) input for a 12 to 19 volt DC power source suitable for use in vehicles

**3.1.6 CONTRACT ITEM# 5: LIVEU COMMUNICATION SYSTEM, OR EQUIVALENT.**  
All items must meet the following requirements:

**3.1.6.1** General requirements for all components of the communication system (3.1.6.2 through 3.1.6.5):

- 3.1.6.1.1** Must provide high quality audio communications between the studio and the field
- 3.1.6.1.2** Must use dynamic technology that guarantees low delay and high audio resiliency regardless of network fluctuations
- 3.1.6.1.3** Must work with all local and remote units, items 3.1.2 through 3.1.5
- 3.1.6.1.4** Audio connections must be manageable using Vendor's Central Management System, see section 3.1.9
- 3.1.6.1.5** Must work with any standard, commercially available microphone

**3.1.6.2** One direction: return audio communication from the studio to the field

**3.1.6.3** One-to-one, bi-directional:

- 3.1.6.3.1** Must provide bi-directional audio communication between the studio and the field units
- 3.1.6.3.2** Must support up to a minimum of eight (8) field units

**3.1.6.4** One-to-many, one direction:

- 3.1.6.4.1** Must provide one way audio communication from the studio to multiple field units
- 3.1.6.4.2** Must support up to a minimum of eight (8) field units

**3.1.6.5** Many-to-many, bi-directional:

- 3.1.6.5.1** Must provide bi-directional audio conference call between multiple crew members whether in the studio or the field
- 3.1.6.5.2** Must support up to a minimum of eight (8) field units

**3.1.7 CONTRACT ITEM# 6: ACCESSORIES:**

- 3.1.7.1** External battery adapter for LiveU LU800A-Pro, or equivalent, as described in section 3.1.2
- 3.1.7.2** AC/DC power adapter for LiveU LU800A-Pro, or equivalent, as described in section 3.1.2



- 3.1.7.3 Car cradle for LiveU LU800A-Pro, or equivalent, as described in section 3.1.2
- 3.1.7.4 External cellular antennae for LiveU LU800A-Pro, or equivalent, as described in section 3.1.2
- 3.1.7.5 ~~External cellular modem for LiveU LU800A-Pro, or equivalent, as described in section 3.1.2~~ - **SECTION 3.1.7.5 VOIDED**
- 3.1.7.6 AC/DC power adapter for LiveU LU810-A-M5G, or equivalent, as described in section 3.1.5
- 3.1.7.7 External cellular antennae for LiveU LU810-A-M5G, or equivalent, as described in section 3.1.5
- 3.1.7.8 External battery adapter for LiveU 300S, or equivalent, as described in section 3.1.3
- 3.1.7.9 AC/DC power adapter for LiveU 300S, or equivalent, as described in section 3.1.3
- 3.1.7.10 ~~External cellular antennae for LiveU 300S, or equivalent, as described in section 3.1.3~~ - **SECTION 3.1.7.10 VOIDED**
- 3.1.7.11 External cellular modem for LiveU 300S, or equivalent, as described in section 3.1.3
- 3.1.7.12 Belt pack case for LiveU LU300S, or equivalent**

**3.1.8 CONTRACT ITEM# 7: VENDOR PROVIDED CELLULAR SERVICE** - cellular service contracted by Vendor with third party cellular service providers and provided to Agency

- 3.1.8.1 Cellular contracts with third party providers must be managed by Vendor
  - 3.1.8.1.1 Vendor must contract for service with third party cellular service providers and bill Agency one aggregate charge for cellular services
  - 3.1.8.1.2 Vendor shall be responsible for paying third party providers and managing their contracts
- 3.1.8.2 Vendor must provide service from third party cellular service providers with acceptable coverage in West Virginia and the surrounding states
  - 3.1.8.2.1 Agency has determined the cellular service providers with acceptable coverage are:
    - 3.1.8.2.1.1 AT&T
    - 3.1.8.2.1.2 Verizon
    - 3.1.8.2.1.3 T-Mobile

- 3.1.8.2.2 Agency will accept other carriers if Vendor can demonstrate their coverage is equal to or better than any of the providers listed in 3.1.8.2.1
- 3.1.8.2.3 At least one carrier must provide priority data service to improve the quality of broadcast streams
- 3.1.8.2.4 If cellular service from any carrier is found to be insufficient during actual field use, vendor must replace said service with an acceptable carrier

3.1.8.3 Vendor shall provide multiple tiers of cellular service so Agency can choose the most cost-effective service in different situations

3.1.8.3.1 Cellular service shall be provided and billed based on cellular data usage plans.

3.1.8.3.2 Data usage shall be billed in increments of one gigabyte

3.1.8.3.3 Vendor must offer a minimum of the following data plans for use with the items described in sections 3.1.2, 3.1.3, 3.1.5, 3.1.6, and 3.1.10:

3.1.8.3.3.1 Standard Service:

3.1.8.3.3.1.1 25 gigabytes per month

3.1.8.3.3.1.2 50 gigabytes per month

3.1.8.3.3.1.3 75 gigabytes per month

3.1.8.3.3.1.4 100 gigabytes per month

3.1.8.3.3.1.5 A single overage charge:

3.1.8.3.3.1.5.1 to be applied to all plans if Agency's data use exceeds the allotted amount

3.1.8.3.3.1.5.2 to be measured in gigabytes of data usage

3.1.8.3.3.2 Priority Data Service

3.1.8.3.3.2.1 Priority data must be available with at least one cellular service provider

3.1.8.3.3.2.2 Priority data service must be offered as a flat additional monthly cost to provider's standard service cost

3.1.8.3.3.2.3 Must provide priority data service of a minimum of 20 gigabytes per month

3.1.8.3.4 All data plans purchased by Agency must be pooled

3.1.8.3.4.1 Plans must be pooled regardless of unit to which the plan is assigned, location, or any other factor

**3.1.8.3.4.2** No data usage overages may be billed unless the Agency's combined usage exceeds the pooled data limit

**3.1.9 CONTRACT ITEM# 8: LIVEU CENTRAL MANAGEMENT SYSTEM, OR EQUIVALENT**

**3.1.9.1** Must be able to view, monitor, and control all units and services as described in sections 3.1.2 through 3.1.6 and 3.1.10 including, but not limited to:

**3.1.9.1.1** Unit streaming settings:

**3.1.9.1.1.1** Start/Stop stream

**3.1.9.1.1.2** Mode

**3.1.9.1.1.3** Delay

**3.1.9.1.1.4** Channel selection

**3.1.9.1.2** Network interfaces:

**3.1.9.1.2.1** Ethernet ports

**3.1.9.1.2.2** WiFi

**3.1.9.1.2.3** Modems

**3.1.9.1.3** IP streaming to social media or content delivery networks

**3.1.9.1.4** File management:

**3.1.9.1.4.1** Preview files

**3.1.9.1.4.2** Play to SDI

**3.1.9.1.4.3** Download

**3.1.9.1.5** Manage metadata before and after streaming

**3.1.9.1.6** User and Group management: must be able to manage and authenticate users and groups through Microsoft Azure Active Directory

**3.1.9.1.7** Bonding management: permit prioritization of different interfaces to maximize performance or minimize costs

**3.1.9.1.8** Remote control and management of network-based equipment: must integrate management of vendor's remote control system for network-based equipment as described in section 3.1.10

**3.1.9.2** Must be a Vendor hosted, cloud-based solution accessible via web browsers

**3.1.9.3** Must work on all Android, Apple, and Windows devices

**3.1.9.4** Must be able to remotely upgrade all units and services as described in sections 3.1.2 through 3.1.6 and 3.1.10.

**3.1.9.5** Must provide real-time monitoring of cellular/WiFi connections, bandwidth, delay, performance, and location.

**3.1.9.6** Vendor must include technical support with system

**3.1.9.7** Vendor must include maintenance, updates, and upgrades with system

**3.1.10 CONTRACT ITEM# 9: LIVEU IP PIPE REMOTE CONTROL SYSTEM FOR NETWORK-BASED EQUIPMENT, OR EQUIVALENT**

**3.1.10.1** Must be manageable using Vendor's Central Management System, see section 3.1.9

**3.1.10.2** Must perform remote control of network-based equipment including, but not limited to:

**3.1.10.2.1** Robotic and PTZ cameras

**3.1.10.2.2** Camera Control Units (CCUs)

**3.1.10.2.3** IP-based intercoms

**3.1.11 CONTRACT ITEM# 10: EQUIPMENT MAINTENANCE AND SUPPORT – ADDITIONAL YEARS** - All maintenance and support prices must include 24x7x365 comprehensive maintenance and support, must be available for all items (3.1.2 through 3.1.6, and 3.1.10), and must include:

**3.1.11.1** Hardware maintenance:

**3.1.11.1.1** equipment updates and advanced hardware replacement as necessary

**3.1.11.1.2** Vendor must provide advanced hardware replacement units if Agency's equipment is deemed defective and/or in need of repair/replacement.

**3.1.11.1.3** Equipment replacements must be shipped same or next business day to arrive in the next 2 business days upon notification that equipment is deemed defective and/or in need of repair/replacement.

**3.1.11.1.4** Vendor will pay for shipping charges for advance replacement units

**3.1.11.1.5** Vendor will provide a return shipping label for the return of replaced equipment

**3.1.11.2** Hardware firmware/operating system updates

**3.1.11.3** Operational support for the use of the equipment

**3.1.11.4** Software maintenance:

**3.1.11.4.1** Security and operating system updates as needed

**3.1.11.4.2** Operational support for the use of the software

**3.1.12 CONTRACT ITEM# 11: TRAINING – must include:**

**3.1.12.1** Live virtual training sessions

**3.1.12.1.1** Two hours must be provided for each unit purchased at no additional cost

**3.1.12.1.2** Must be provided during normal business hours (9 a.m. to 5 p.m. Eastern time, Monday through Friday)

**3.1.12.1.3** Additional training shall be billed by the hour

**3.1.12.2** Online, self-paced learning platform

**3.1.12.2.1** Must include training on all purchased items, section 3.2 through 3.6 and 3.10

**3.1.12.2.2** Must be self-paced

**3.1.12.2.3** Must be available to Agency staff at any time

**3.1.12.2.4** Must include unlimited users / staff members

**3.1.12.2.5** Must be accessible using a browser on any Apple, Android, or Windows device

**3.1.12.2.6** First year must be included with the purchase of any items as described in sections 3.2 through 3.6 and 3.10

**3.1.12.2.7** Cost for additional years must include unlimited users / staff members

**4. CONTRACT AWARD:**

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

**4.2 PRICING PAGES:** Vendor should complete the Pricing Pages by completing the pricing pages contained in wvOASIS, the provided Excel spreadsheet, or attached hereto as Exhibit A. Vendor should complete the Pricing Pages in their entirety as failure to do so may result in Vendor's bid being disqualified.

The Pricing Pages contain a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied.

Vendor should electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document such as the provided Excel spreadsheet. In most cases, the Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to the following address: Toby.L.Welch@WV.Gov.

**5. ORDERING AND PAYMENT:**

- 5.1 ORDERING:** Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written form of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor can accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.
- 5.2 PAYMENT:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

**6. DELIVERY AND RETURN:**

- 6.1 DELIVERY TIME:** Vendor shall deliver standard orders within thirty (30) working days after orders are received. Vendor shall deliver emergency orders within three (3) working day(s) after orders are received. Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met.
- 6.2 LATE DELIVERY:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

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

- 6.3 DELIVERY PAYMENT/RISK OF LOSS:** Standard order delivery shall be F.O.B. destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery. The Agency will pay delivery charges on all emergency orders provided that Vendor invoices

those delivery costs as a separate charge with the original freight bill attached to the invoice.

- 6.4 RETURN OF UNACCEPTABLE ITEMS:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.
- 6.5 RETURN DUE TO AGENCY ERROR:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

## **7. VENDOR DEFAULT:**

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

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

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

- 7.2.1** Immediate cancellation of the Contract.
- 7.2.2** Immediate cancellation of one or more release orders issued under this Contract.

7.2.3 Any other remedies available in law or equity.

**8. MISCELLANEOUS:**

- 8.1 NO SUBSTITUTIONS:** Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.
- 8.2 VENDOR SUPPLY:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.
- 8.3 REPORTS:** Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.
- 8.4 CONTRACT MANAGER:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:** Bryan Morgan, Sales Manager SE  
**Telephone Number:** (941) 799-1188  
**Fax Number:** N/A  
**Email Address:** bryanm@liveu.tv



## Exhibit A, Pricing Pages, EBA71873, IP-based Remote Broadcast Delivery Solution

Light Blue Cells - descriptive only. Not editable			Green Cells - Vendor data entry. Editable.		Orange Cells - automatically completed formulas. Not editable	
Item#	Description	Vendor's Description / Manufacturer and Model Number	Unit of Measure	Estimated Quantity	Unit Cost	Extended Cost
1	LiveU LU800A-Pro, or equivalent, per section 3.1.2	P/N: <b>LU800A-PRO-HD-ANT-5G-4</b> LU800A-Pro with single camera HD and external antenna connectors. Includes 4x4G and 4x5G global modems. Supports up to 1080p60 over SDI only.  <b>Note: Annual 4K-HDR license is included (includes an additional 50GB of data per month). Pro4 Multi-camera license is included (includes an additional 50GB of data per month).</b>	each	1	\$ 43,044.00	\$ 43,044.00
1A	One-week rental of LiveU LU800-Pro4-HD, or equivalent, per section 3.1.5.10	P/N: <b>LU800 Pro 4 HD PRO4 &amp; PRO-4K</b>  <b>Note: Includes 4K-HDR and Pro4 Multi-camera licenses along with 30GB of data.</b>	per week	1	\$ 4,050.00	\$ 4,050.00
1B	One-month rental of LiveU LU800-Pro4-HD, or equivalent, per section 3.1.5.10	P/N: <b>LU800 Pro 4 HD PRO4 &amp; PRO-4K</b>  <b>Note: Includes 4K-HDR and Pro4 Multi-camera licenses along with 50GB of data.</b>	per month	1	\$ 6,075.00	\$ 6,075.00
1B	<b>Shipping for Rental Units per sections 3.1.2.10.3 and 3.1.3.11.3</b>	<b>Estimated annual round-trip shipping for rentals, vendor's cost. No entry required.</b>	<b>each</b>	<b>2</b>		
2	LiveU LU300S, or equivalent, per section 3.1.3	P/N: <b>LU300S-VM-5G-2-4G-2</b> LU300S V-mount camera mount HEVC video transmit unit with 2 internal 5G modems and 2 external 4G modems. Includes Pro and 4K licenses supporting up to 4K over SDI, up to 30Mbps live transmission, 10-bit HDR encoding, 8 audio channels, Live & Store, super high quality store option and Dual SIM support.  <b>Note: Included 4K license includes an additional 50GB of data per month.</b>	each	2	\$ 17,340.00	\$ 34,680.00

2A	One-week rental of LiveU LU300S, or equivalent, per section 3.1.3.10	P/N: <b>LU300-HECV-HD+PRO-LIC</b> Includes 30GB of data.	per week	1	\$ 1,500.00	\$ 1,500.00
2B	One-month rental of LiveU LU300S, or equivalent, per section 3.1.3.10	P/N: <b>LU300-HECV-HD+PRO-LIC</b> Includes 50GB of data.	per month	1	\$ 2,200.00	\$ 2,200.00
3	<b>LiveU LU4000-4K/QUAD, or equivalent, per section 3.1.4</b>	P/N: <b>LU10-SV-1UL04-4K</b> LU4000 1RU Rack Mount 4K Decoder Server – 1x4K/4xHD SDI Outputs. SW license included. Required for high HD/4K video bit rate transmission (above 20Mbps)	each	2	\$ 7,120.00	\$ 14,240.00
4	<b>LiveU LU810-A-M5G, or equivalent, per section 3.1.5</b>	P/N: <b>LU810A-5G-M</b> LU810 HEVC 1U rack-mount multi camera video transmission unit with 6 internal modems (4 X 5G and 2 X 4G). Includes standard SW package supporting 4 cameras, up to 4x1080p60 (SDI), up to 20 Mbps/15X4 Mbps live transmission, 16 audio channels and Dual SIM support. Includes 4Kp60 10bit-HDR SW license. Includes AC adaptor.	each	1	\$ 24,784.00	\$ 24,784.00
5	<b>LiveU Communication System, or equivalent, per section 3.1.6</b>					
5A	LiveU Communication System - one direction, or equivalent, per section 3.1.6.2	Standard on all HEVC product lines.	per year	5	\$ -	\$ -
5B	LiveU Communication System - one-to-one bi-directional, or equivalent, per section 3.1.6.3	P/N: <b>LU-LIC-AUD-INF8</b> Yearly Audio Connect license for 8 audio interfaces assigned in the station side. Includes 1:1 intercom bidirectional audio communication or “many to many”. Supported on all HEVC product lines.	per year	1	\$ 800.00	\$ 800.00
5C	LiveU Communication System - one-to-many one direction, or equivalent, per section 3.1.6.4		per year	1	<b>Refer to 5B</b>	<b>Refer to 5B</b>
5D	LiveU Communication System - many-to-many bi-directional, or equivalent, per section 3.1.6.5		per year	5	<b>Refer to 5B</b>	<b>Refer to 5B</b>
6	<b>Accessories per section 3.1.7</b>					
6A	External battery adapter for LiveU LU800A-Pro, or equivalent	P/N: <b>LU800-EX-VM001</b> V-mount version. Battery not included. P/N: <b>LU800-EX-DTAP1</b> LU800 D-TAP power cable for V-mount plates	each	1	\$ 396.00	\$ 396.00
6B	AC/DC power adapter for LiveU LU800A-Pro, or equivalent	Standard, included with system	each	1	\$ -	\$ -

6C	Car cradle for LiveU LU800A-Pro, or equivalent	P/N: <b>LU800-CAR-CRDL</b> Includes the car cradle, LU800 adapter and power supply. External antennas not included.	each	1	\$ 2,400.00	\$ 2,400.00
6D	External cellular antennae for LiveU LU800A-Pro, or equivalent	P/N: <b>ANT00038</b> External, high performance, IP67, screw mount 3G/4G/5G antenna. Dimensions: Ø 96 x H 90 mm, 3m cables with SMA connectors.  <b>Note: Each antenna module includes 2 internal independent antennas. Each antenna assembly supports up to (2) AT&amp;T, (2) Verizon or (1) T-Mobile modem. (6) antennas assemblies are required per LU800A.</b>	each	1	\$ 280.00	\$ 280.00
6E	External cellular modem for LiveU LU800A-Pro, or equivalent	<b>ITEM VOIDED</b>	each	0	<b>ITEM VOIDED</b>	<b>ITEM VOIDED</b>
6F	AC/DC power adapter for LiveU LU810-A-M5G, or equivalent	Standard, included with system	each	1	\$ -	\$ -
6G	External cellular antennae for LiveU LU810-A-M5G, or equivalent	P/N: <b>ANT00038</b> External, high performance, IP67, screw mount 3G/4G/5G antenna. Dimensions: Ø 96 x H 90 mm, 3m cables with SMA connectors.  <b>Note: Each antenna module includes 2 internal independent antennas. Each antenna assembly supports up to (2) AT&amp;T, (2) Verizon or (1) T-Mobile modem. (6) antennas assemblies are required per LU800A.</b>	each	1	\$ 280.00	\$ 280.00
6H	External battery adapter for LiveU 300S, or equivalent	P/N: <b>EX-VM001</b> V-mount version. Battery not included. P/N: <b>LU200-EX-DTAP1</b> LU200/LU300 D-TAP power cable for V-mount plates	each	1	\$ 456.00	\$ 456.00
6I	AC/DC power adapter for LiveU 300S, or equivalent	Standard, included with system	each	1	\$ -	\$ -
6J	External cellular antennae for LiveU 300S, or equivalent	<b>ITEM VOIDED</b>	each	0	<b>ITEM VOIDED</b>	<b>ITEM VOIDED</b>
6K	External cellular modem for LiveU 300S, or equivalent	P/N: <b>LU-NET-5G</b> 5G Global external modem for LU300S field upgrade. Single modem (no SIM).	each	1	\$ 796.00	\$ 796.00
6K	External belt pack case for LiveU 300S, or equivalent	P/N: <b>LU300S-BELT-PACK</b> LU300S Belt Pack with pockets for external modems and extra storage compartment, adjustable size	each	1	\$ 156.00	\$ 156.00

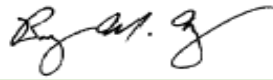
7A	<b>Standard Vendor provided cellular service, per section 3.1.8.3.3.1</b>					
7A1	25 gigabytes per month, per section 3.1.8.3.3.1	P/N: <b>LU-Data-025</b> 25GB Data package per month <b>Note: This is the minimum plan for LU300S</b>	per month	24	\$ 250.00	\$ 6,000.00
7A2	50 gigabytes per month, per section 3.1.8.3.3.1	P/N: <b>LU-Data-050</b> 50GB Data package per month <b>Note: This is the minimum plan for LU800A/LU810</b>	per month	24	\$ 500.00	\$ 12,000.00
7A3	75 gigabytes per month, per section 3.1.8.3.3.1	P/N: <b>LU-Data-075</b> 75GB Data package per month	per month	1	\$ 750.00	\$ 750.00
7A4	100 gigabytes per month, per section 3.1.8.3.3.1	P/N: <b>LU-Data-100</b> 100GB Data package per month	per month	1	\$ 1,000.00	\$ 1,000.00
7A5	Monthly overage per gigabyte per month, per section 3.1.8.3.3.1	Overage charge is \$15.00 per GB per monthly data plan	per month	12	\$ 15.00	\$ 180.00
7B	<b>Priority Vendor provided cellular service, per section 3.1.8.3.3.2</b>	P/N: <b>LU-PRIORITY-D</b> Up to 20GB of Prioritized Data <b>Note: Price is per month per AT&amp;T modem.</b>	per month	60	\$ 30.00	\$ 1,800.00
8	<b>LiveUCentral Management System, or equivalent, per section 3.1.9</b>	Standard	1 year	1	\$ -	\$ -
9	<b>LiveUCentral IP Pipe Remote Control System, or equivalent, per section 3.1.10</b>	P/N: <b>LU-LIC-IP-PIPE</b> IP-PIPE data channel between station and unit. Available for LU800/LU810/LU300S. Price is per year per LiveU unit.	each, per year	4	\$ 800.00	\$ 3,200.00
10	<b>Equipment maintenance and support, per section 3.1.11</b>					
10A	Equipment maintenance and support for LiveU LU800A-PRO, or equivalent, per section 3.1.11	P/N: <b>LU-SLA</b> <b>Note: 1 year duration after 1 year warranty expires.</b>	1 year	1	\$ 3,672.00	\$ 3,672.00
10B	Equipment maintenance and support for LiveU LU800A-PRO, or equivalent, per section 3.1.11	P/N: <b>LU-SLA</b> <b>Note: 3 year duration after 1 year warranty expires.</b>	3 year	1	\$ 9,180.00	\$ 9,180.00
10C	Equipment maintenance and support for LiveU LU800A-PRO, or equivalent, per section 3.1.11	P/N: <b>LU-SLA</b> <b>Note: 5 year duration after 1 year warranty expires.</b>	5 year	1	\$ 12,240.00	\$ 12,240.00
10D	Equipment maintenance and support for LiveU LU300S, or equivalent, per section 3.1.11	P/N: <b>LU-SLA</b> <b>Note: 1 year duration after 1 year warranty expires.</b>	1 year	1	\$ 1,799.00	\$ 1,799.00

10E	Equipment maintenance and support for LiveU LU300S, or equivalent, per section 3.1.11	P/N: LU-SLA <b>Note: 3 year duration after 1 year warranty expires.</b>	3 year	1	\$ 4,498.00	\$ 4,498.00
10F	Equipment maintenance and support for LiveU LU300S, or equivalent, per section 3.1.11	P/N: LU-SLA <b>Note: 5 year duration after 1 year warranty expires.</b>	5 year	1	\$ 5,998.00	\$ 5,998.00
10G	Equipment maintenance and support for LiveU LU810-A-M5G, or equivalent, per section 3.1.11	P/N: LU-SLA <b>Note: 1 year duration after 1 year warranty expires.</b>	1 year	1	\$ 3,312.00	\$ 3,312.00
10H	Equipment maintenance and support for LiveU LU810-A-M5G, or equivalent, per section 3.1.11	P/N: LU-SLA <b>Note: 3 year duration after 1 year warranty expires.</b>	3 year	1	\$ 8,280.00	\$ 8,280.00
10I	Equipment maintenance and support for LiveU LU810-A-M5G, or equivalent, per section 3.1.11	P/N: LU-SLA <b>Note: 5 year duration after 1 year warranty expires.</b>	5 year	1	\$ 11,040.00	\$ 11,040.00
10J	Equipment maintenance and support for LiveU LU4000-4K/QUAD, or equivalent, per section 3.1.11	P/N: LU-SLA <b>Note: 1 year duration after 1 year warranty expires.</b>	1 year	1	\$ 1,282.00	\$ 1,282.00
10K	Equipment maintenance and support for LiveU LU4000-4K/QUAD, or equivalent, per section 3.1.11	P/N: LU-SLA <b>Note: 3 year duration after 1 year warranty expires.</b>	3 year	1	\$ 3,204.00	\$ 3,204.00
10L	Equipment maintenance and support for LiveU LU4000-4K/QUAD, or equivalent, per section 3.1.11	P/N: LU-SLA <b>Note: 5 year duration after 1 year warranty expires.</b>	5 year	1	\$ 4,272.00	\$ 4,272.00
10M	Equipment maintenance and support for LiveU Communication System, or equivalent, per section 3.1.11	<b>Included for first year and for all years in which Support &amp; Maintenance is valid on respective device.</b>	1 year	1	\$ -	\$ -
10N	Equipment maintenance and support for LiveU Communication System, or equivalent, per section 3.1.11	<b>Included for first year and for all years in which Support &amp; Maintenance is valid on respective device.</b>	3 year	1	\$ -	\$ -
10O	Equipment maintenance and support for LiveU Communication System, or equivalent, per section 3.1.11	<b>Included for first year and for all years in which Support &amp; Maintenance is valid on respective device.</b>	5 year	1	\$ -	\$ -
10P	Equipment maintenance and support for LiveU IP Pipe Remote Control System, or equivalent, per section 3.1.11	<b>Included for first year and for all years in which Support &amp; Maintenance is valid on respective device.</b>	1 year	1	\$ -	\$ -

10Q	Equipment maintenance and support for LiveU IP Pipe Remote Control System, or equivalent, per section 3.1.11	Included for first year and for all years in which Support & Maintenance is valid on respective device.	3 year	1	\$ -	\$ -
10R	Equipment maintenance and support for LiveU IP Pipe Remote Control System, or equivalent, per section 3.1.11	Included for first year and for all years in which Support & Maintenance is valid on respective device.	5 year	1	\$ -	\$ -
<b>11</b>	<b>Training, per section 3.1.12</b>					
11A	Live Virtual Training, additional time, per section 3.1.12.1	Dedicated Online Training	per hour	25	\$ 75.00	\$ 1,875.00
11B	Online Training Platform, additional years, per section 3.1.12.2	Standard, no charge when registered.	per year	5	\$ -	\$ -

**Total Bid Amount:**

**\$ 231,719.00**



Vendor Signature

May 19, 2023

Date

Bryan Morgan, Sales Manager SE

Printed Name and Title

## GENERAL TERMS AND CONDITIONS:

**1. CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, 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:** The Initial Contract Term will be for a period of one (1) year. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as \_\_\_\_\_), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

**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:

the contract will continue for \_\_\_\_\_ years;

the 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).

**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.

**Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as \_\_\_\_\_), and continues until the project for which the vendor is providing oversight is complete.

**Other:** Contract Term specified in \_\_\_\_\_

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

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

**Open End Contract:** Quantities listed in this Solicitation/Award Document 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.

**Construction:** This Contract is for construction activity more fully defined in the specifications.

**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 in this section must be provided to the Purchasing Division by the Vendor as specified:

**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 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 that insurance requirement is listed in this section.

Vendor must maintain:

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

**Automobile Liability Insurance** in at least an amount of: \_\_\_\_\_ per occurrence.

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

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

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

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

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

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

**9. WORKERS' COMPENSATION INSURANCE:** 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. VENUE:** All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

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

\_\_\_\_\_ for \_\_\_\_\_.

Liquidated Damages Contained in the Specifications.

Liquidated Damages Are Not Included in this Contract.

**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:** Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

**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, included in the Contract, 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. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

**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 regarding 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 NON-CONFLICT:** Neither Vendor nor its representatives are permitted to have any interest, nor shall they 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.

Revised 11/1/2022

**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. NO DEBT CERTIFICATION:** 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. By submitting a bid, or entering into a contract with the State, Vendor is affirming 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, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

**38. 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.



**39. 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.division@wv.gov](mailto:purchasing.division@wv.gov).

**40. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, 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. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

**41. 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.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
  1. 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
  2. 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.

**42. 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.

**43. 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 disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work 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.

**44. 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.

**45. VOID CONTRACT CLAUSES:** This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

**46. ISRAEL BOYCOTT:** Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

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

(Printed Name and Title) Bryan Morgan, Sales Manager SE

(Address) 2 University Plaza Drive, Suite 505 - Hackensack, NJ 07601

(Phone Number) / (Fax Number) (941) 799-1188

(Email address) bryanm@liveu.tv

**CERTIFICATION AND SIGNATURE:** By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract 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/Contract 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 this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; 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; 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.

*By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.*

LiveU Inc.

(Company) \_\_\_\_\_

(Signature of Authorized Representative) \_\_\_\_\_

Michael Savello, VP, Sales

(Printed Name and Title of Authorized Representative) (Date) \_\_\_\_\_

(508) 965-0634

(Phone Number) (Fax Number) \_\_\_\_\_

mike@liveu.tv

(Email Address) \_\_\_\_\_



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

State of West Virginia  
 Centralized Request for Quote  
 Info Technology

<b>Proc Folder:</b> 1213716		<b>Reason for Modification:</b>	
<b>Doc Description:</b> Addendum No 2-EBAr71873 IP-based broadcast equipment and svc		Addendum No 2 is issued to publish the 2nd set of questions with responses, to modify the specificat..... See Page 2 for complete info	
<b>Proc Type:</b> Central Master Agreement			
<b>Date Issued</b>	<b>Solicitation Closes</b>	<b>Solicitation No</b>	<b>Version</b>
2023-05-17	2023-05-23 13:30	CRFQ 0439 EBA2300000005	3

**BID RECEIVING LOCATION**


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

**VENDOR**

**Vendor Customer Code:**  
**Vendor Name :** LiveU, Inc.  
**Address :**  
**Street :** 2 University Plaza Drive, Suite 505  
**City :** Hackensack  
**State :** New Jersey **Country :** USA **Zip :** 07601  
**Principal Contact :** Bryan Morgan, Sales Manager, SE  
**Vendor Contact Phone:** (941) 799-1188 **Extension:** N/A

**FOR INFORMATION CONTACT THE BUYER**

Toby L Welch  
 (304) 558-8802  
 toby.l.welch@wv.gov

**Vendor Signature X**  **FEIN#** 75-3267438 **DATE** May 19, 2023

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

**Reason for Modification:**

Addendum No 2 is issued to publish the 2nd set of questions with responses, to modify the specifications, and to publish a new pricing page.

**ADDITIONAL INFORMATION**

Addendum No 2 is issued for the following reasons:

- 1) To publish vendor's questions with their responses. (2nd Set)
- 2) To modify the specifications.
- 3) To modify the pricing page.

--no other changes--

INVOICE TO	SHIP TO
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EDUCATIONAL BROADCASTING 124 INDUSTRIAL PARK RD  BEAVER                      WV US	EDUCATIONAL BROADCASTING 600 CAPITOL ST  CHARLESTON                      WV US
---------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	BROADCAST OVER IP SERVICES				

Comm Code	Manufacturer	Specification	Model #
83111601			

**Extended Description:**

Vendor must complete Exhibit A Pricing page in its entirety and submit it with their bid. Please see Section 4.2 of the RFQ Specifications for more information.  
 Vendors should enter the Total Bid Amount from pricing page into the commodity line.

**SCHEDULE OF EVENTS**

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Questions are due by 4:00 p.m.	2023-05-08
2	2nd Round of Questions are due by 4:00 p.m.	2023-05-15

	Document Phase	Document Description	Page
EBA2300000005	Final	Addendum No 2-EBAr71873 IP-based broadcast equipment and svc	3

**ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions

## LiveU Terms and Conditions of Sale and Lease

THESE TERMS AND CONDITIONS (THE "Agreement") CONSTITUTE A BINDING AGREEMENT BETWEEN LIVEU LTD. OR THE LIVEU ENTITY SPECIFIED IN THE PURCHASE ORDER ("LiveU") AND THE INDIVIDUAL OR ENTITY ("Customer") ISSUING THE CORRESPONDING PURCHASE ORDER OR ORDER FORM TO WHICH THIS AGREEMENT RELATES ("Order"), WHICH ORDER, ONCE ACCEPTED BY LIVEU (EITHER IN WRITING OR BY SHIPMENT), IS HEREBY INCORPORATED INTO, AND MADE A PART OF, THIS AGREEMENT BY REFERENCE. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ENTITY, YOU REPRESENT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO BIND SUCH ENTITY TO THIS AGREEMENT. LiveU and Customer may be collectively referred to herein as the "Parties", and each individually as a "Party".

IF CUSTOMER HAS AN EXISTING AGREEMENT IN EFFECT WITH A LIVEU ENTITY FOR THE SUPPLY OF PRODUCTS, SOFTWARE PRODUCTS, AND/OR SOFTWARE SERVICES (EACH AS DEFINED BELOW) (AN "EXISTING AGREEMENT"), THEN THE PARTIES AGREE THAT THE ORDER SHALL BE GOVERNED BY, AND DEEMED INCORPORATED INTO AND MADE A PART OF, THE EXISTING AGREEMENT (AND NOT THIS AGREEMENT), IN WHICH CASE, THE FOLLOWING TERMS AND CONDITIONS SHALL NOT APPLY.

### DEFINITIONS AND INTERPRETATION

This Agreement contains a range of capitalized terms defined in this Section and elsewhere. The Section and sub-Section headings in this Agreement are for convenience of reading only and shall not be used or relied upon for interpretive purposes.

**"Affiliate"** means, with respect to either Party, any person, organization or entity controlling, controlled by or under common control with, such Party. For purposes of this definition only, "control" of another person, organization or entity will mean the possession, directly or indirectly, of the power to direct or cause the direction of the activities, management or policies of such person, organization or entity, whether through the ownership of voting securities, by contract or otherwise. Without limiting the foregoing, "control" will be deemed to exist when a person, organization or entity (i) owns more than fifty percent (50%) of the outstanding voting stock or other ownership interest of the other organization or entity, or (ii) possesses, directly or indirectly the power to elect or appoint more than fifty percent (50%) of the members of the governing body of the other organization or entity.

**"Documentation"** means LiveU's user manuals, data sheets and similar materials that are delivered with the Product.

**"Enhancement"** means any improvement, derivative work, customization, modification, or enhancement.

**"Export Control Laws"** means all export and re-export control Laws that apply to LiveU (and/or its Affiliates) and/or to Customer, including without limitation Israeli export control Laws, the Export Administration Regulations (EAR) maintained by the US Department of Commerce, trade and economic sanctions maintained by the US Treasury Department's Office of Foreign Assets Control (OFAC), and the International Traffic in Arms Regulations (ITAR) maintained by the US Department of State.

**"Firmware"** means any software embedded within the hardware components of the Product.



**"LiveU Materials"** means, collectively, the Product, Software, and Documentation.

**"Intellectual Property"** means any and all inventions, invention disclosures, discoveries, improvements, works of authorship, technical information, data, databases, know-how, show-how, designs, ideas, drawings, logos, utility models, topography and semiconductor mask works, specifications, formulas, methods, techniques, processes, software (including object code, source code, APIs, and non-literal aspects), algorithms, architecture, records, documentation, and other similar intellectual property or technology, in any form and embodied in any media, anywhere in the world.

**"Intellectual Property Rights"** means any and all rights, titles, and interests (under any jurisdiction or treaty, whether protectable or not, and whether registered or unregistered) in and to Intellectual Property, including without limitation patents, copyrights and similar authorship rights, moral (and similar personal) rights, mask work rights, data and database rights, trade secret rights and similar rights in confidential information and other non-public information, design rights, industrial property rights, trademark, service mark, trade name, trade dress and similar branding rights, as well as: (i) all applications, registrations, renewals, reexaminations, extensions, continuations, continuations-in-part, provisionals, substitutions, divisions or reissues of or for the foregoing; and (ii) all goodwill associated with the foregoing.

**"Laws"** means any federal, state and local laws, statutes, ordinances, rules and regulations of any jurisdiction.

**"Product"** means the LiveU hardware product (and any related accessories) specified in the Order.

**"Server"** means any physical, virtual, and/or cloud server on which a Software Product may be installed.

**"Software"** means, collectively, the Firmware, any Software Products, and any Software Services.

**"Software Product"** means any software product specified in the Order, for delivery on a standalone basis (*i.e.*, separate from any Product).

**"Software Services"** means any software-as-a-service or similar cloud services specified in the Order.

**"Territory"** means any usage territory specified in the Order.

## **ORDER; DELIVERY**

Order. Subject to payment by Customer, LiveU shall deliver the Products ordered by Customer under the Order (and in the quantities specified therein) pursuant to the terms of this Agreement. Notwithstanding anything in this Agreement to the contrary, the pricing and payment terms of the Order shall be deemed confidential to LiveU, and Customer shall not disclose such terms (in whole or in part) to any third party, except to its directors, officers, and employees who have need to know such terms in order to perform under this Agreement. To the extent that any provision in the Order conflicts with any provision of the main body of this Agreement, the latter shall prevail (unless the Order specifically overrides with specific reference to the conflicting provision). Furthermore, any terms or conditions (whether printed, hyperlinked, or otherwise) in an Order not accepted in writing by LiveU and which purport to modify or supplement this Agreement (or any corresponding quote issued by LiveU), shall be void and of no effect, even if the Order is acknowledged in writing by LiveU.

Delivery. LiveU shall make commercially reasonable efforts to meet any delivery date(s) stated in the Order; *however*, Customer acknowledges that delivery is dependent on third parties outside LiveU's control. Furthermore, and unless expressly stated otherwise in the Order, delivery time is not of the essence. Unless specified otherwise in the Order, delivery of the Products shall be prepaid, and will be made Ex Works

(Incoterms 2010) LiveU's designated facility (at which time risk of loss of, or damage to, the Products shall pass to Customer). LiveU shall cooperate with Customer (or its designated freight carrier) to facilitate shipping.

**Title and Security Interest.** If Customer purchases a Product, title to the Product shall not pass to Customer until all applicable payments to LiveU have been made. Pending such payment, LiveU hereby reserves and maintains, and Customer hereby grants to LiveU, a first priority purchase money security interest in the Product, wherever located, including all replacements and proceeds related thereto or derived therefrom, and Customer agrees to promptly execute any documents reasonably requested by LiveU to confirm, perfect and protect such security interest, and hereby irrevocably authorizes LiveU to execute and file any one or more financing statements (such as pursuant to UCC-1 in the United States) covering all property and proceeds subject to such security interest. For the avoidance of doubt, any copies of Software and Documentation are only licensed (and not sold) pursuant to this Agreement, and no title thereto passes to Customer.

**Leases.** If Customer leases a Product, Customer shall be entitled, subject to Customer's payment of the applicable fees, to use such Product in accordance with the terms hereof for the lease period specified in the applicable Order (the "**Lease Period**"). Upon expiration of the Lease Period, Customer shall immediately return the Product to LiveU in the same condition in which they were provided to Customer by LiveU, less reasonable wear and tear. In the event the Product is lost, stolen or damaged, then Customer shall be responsible for such loss, theft or damage and shall pay LiveU as follows: (a) in the case of loss or theft, the full replacement fee in an amount equal to LiveU's then-current list price for the Product (the "**Replacement Fee**"), and in the case of damage, the cost and expense to repair such damage, as determined by LiveU (the "**Repair Fee**"). No loss, theft, or damage shall relieve Customer of the obligation to pay any fees or other amounts due or that become due or any other obligation hereunder. Customer shall notify LiveU in writing within seven (7) days after any such loss, theft or damage becomes known to Customer, and Customer shall pay the Replacement Fee or Repair Fee, as applicable, to LiveU (as determined by LiveU) within thirty (30) days after such notification. In the case of repairs, Customer shall bear the costs of shipment of the damaged Product to LiveU and return shipment of the repaired Product. If the Lease Period is still in effect when the lost, stolen or damaged Products are received by LiveU and after LiveU has received payment of the Replacement Fee or Repair Fee (as applicable), LiveU shall make commercially reasonable efforts to provide a replacement Product for the remainder of the Lease Period.

**LiveU Cancellation.** LiveU shall have the right to cancel any unfilled Order (or part thereof) without notice to Customer in the event that: (a) a receiver is appointed for the Customer or its property, which appointment is not dismissed within sixty (60) days; (b) the Customer makes a general assignment for the benefit of its creditors; (c) the Customer commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief Law, which proceedings are not dismissed within sixty (60) days; or (d) the Customer is liquidating, dissolving or ceasing normal business operations.

**Carrier Fees.** Customer acknowledges that use of the Product (whether leased or purchased by Customer) outside the Territory may result in additional carrier fees, including without limitation roaming charges, duties, and other costs, that all such additional carrier fees shall be the responsibility and liability of Customer, and that LiveU shall have no liability to Customer in connection with any such fees. In the event of use outside the Territory, LiveU may invoice Customer for the additional amounts due, and Customer agrees to pay such amounts within fifteen (15) days from the date of such invoice.

## **LICENSE**

**License.** Customer shall use the Products solely in accordance with the Documentation. Subject to the terms and conditions of this Agreement, LiveU grants Customer a limited, revocable, non-exclusive, non-assignable, and non-sublicensable license to (as applicable):

- (a) install the Software Product on a device or Server owned by Customer (but subject to any volume, Territory, or other limitations specified in the Order), and use the Software Product during the corresponding license term specified in the Order ("**License Term**") for Customer's internal business purposes ("**Software Product License**");
- (b) access and use the Software Services (subject to any volume, Territory, or other limitations specified in the Order) during the corresponding subscription term specified in the Order ("**Subscription Term**") for Customer's internal business purposes ("**Software Services Subscription**");
- (c) use the Product's copy of the Firmware solely as embedded in the Product ("**Firmware License**"); and/or
- (d) make a reasonable number of copies of the applicable Documentation for use with the Product, Software Product and/or Software Services, as the case may be ("**Documentation License**").

(the Software Product License, Software Services Subscription, Firmware License, and Documentation License collectively, the "**License**"). Any rights not expressly granted in this Agreement are hereby reserved by LiveU and its licensors, and, except for the License, no Intellectual Property Rights are granted to Customer, whether by implied license, estoppel, patent exhaustion, operation of law, or otherwise.

Assignment of Firmware License. Customer may assign the Firmware License, and only if Customer meets all of the following conditions: (a) the assignment is of the Firmware License as a whole; (b) the assignment is permanent; (c) the assignment is to a party in connection with the transfer of ownership to such party of the Product, and such party has read and agreed to the terms and conditions of this Agreement; and (d) Customer retains no copy (regardless of medium) of the Firmware.

## LICENSE RESTRICTIONS

As a condition to the License, Customer shall not (and shall not encourage or permit any third party to) do any of the following (in whole or in part), except as expressly permitted by this Agreement: (a) reproduce or manufacture the Product, Software or Documentation; (b) sell, assign, transfer, lease, rent, sublicense, distribute, publicly perform, display or communicate, offer as part of a time-sharing, outsourcing or service bureau environment, or otherwise make commercially available, the Product, Software or Documentation; (c) modify, alter, adapt, arrange, or translate the Product, Software or Documentation; (d) decompile, disassemble, decrypt, reverse engineer, extract, or otherwise attempt to discover the source code or non-literal aspects (such as the underlying structure, sequence, organization, file formats, non-public APIs, ideas, or algorithms) or internal composition of, the Product, Software or Documentation; (e) remove, alter, or conceal any copyright, trademark, or other proprietary rights notices displayed on or in the Product, Software or Documentation; (f) circumvent, disable or otherwise interfere with security-related or technical features or protocols of the Product, Software or Documentation; (g) make a derivative work of the Product, Software or Documentation, or use them to develop any service or product that is the same as (or substantially similar to) them; (h) store or transmit any robot, malware, Trojan horse, spyware, or similar malicious item intended (or that has the potential) to damage or disrupt the Product, Software or Documentation; (i) use the Product, Software or Documentation to infringe, misappropriate, or violate any third party's Intellectual Property Rights, or any applicable Law, or to otherwise engage in any fraudulent activity; or (j) disclose to the public the results of any internal performance testing or benchmarking studies of or about the Product, Software or Documentation without first sending the results and related study(ies) to LiveU, and obtaining LiveU's written approval of the assumptions, methodologies and other parameters of the testing or study.

To the extent Customer is given the right, under any Law applicable to Customer, to receive information and/or materials for purposes of making any portion of the Software interoperable with other software, and such information and materials are not contained within any Documentation, Customer agrees that it shall

request from LiveU (in a detailed writing) access to such information and/or materials, and if LiveU accepts such request, LiveU may (in its sole discretion) impose additional conditions on such access and use.

## **SUPPORT SERVICES; PROFESSIONAL SERVICES**

Support Services. Customer may at any time purchase from LiveU technical support services for certain purchased Products and/or Software Products ("**Support Services**") pursuant to certain various support packages offered by LiveU and their respective then-current rates ("**Support Packages**"). Customer's purchase order for the Support Services (if accepted by LiveU) shall be deemed incorporated into, and made a part of, this Agreement by reference. Support Services may be provided by LiveU and/or its third party service providers. Any support services for Products or Software Products obtained from an authorized reseller of LiveU, shall be provided by such reseller solely pursuant to Customer's applicable agreement with such reseller.

Exceptions. LiveU shall have no obligation to provide Support Services in connection with any of the following: (a) altered or modified LiveU Materials; (b) LiveU Materials that are not the current version; (c) problems to LiveU Materials caused by Customer's (or third party's) misuse, negligence, hardware malfunction, or modification thereof, or other causes beyond the control of LiveU; and/or (d) LiveU Materials that have been installed or are being used in a way that is inconsistent with LiveU's written instructions or Documentation, or otherwise in breach of this Agreement. If Customer has directly purchased third party equipment (such as Servers) for use with a Software Product, such third party equipment must meet LiveU specifications in order to ensure proper performance of the Software Products, and in order for Customer to receive Support Services for such Software Product. For the avoidance of doubt, in no event do the Support Services cover such third party equipment itself. In addition, if it is found that an error which was reported to LiveU under Support Services is not an error that materially degrades the use of the Product, Software Product, or Software Services (as applicable), LiveU will have the right to charge Customer for the time spent in handling and diagnosing the matter, at its then-current standard hourly rates.

Any request for services in connection with any of the foregoing subparagraphs (a) through (d) inclusive shall be deemed a request of Professional Services (defined below). Furthermore, the following services are not within the scope of Support Services and shall be deemed Professional Services: (i) the installation of an "**Upgrade**", which means any new generally available (GA) release of a Software Product or Software Services that includes significant new features, functionality, and/or enhancements, and which is typically indicated by a number to the left of the decimal point (*e.g.* Version 4.0 is an Upgrade from Version 3.3); (ii) the development and supply of special or user-specific developments; (iii) the integration of Products, Software Products, and/or Software Services with third-party hardware or software; and/or (iv) training with respect to use of any Products, Software Products, and/or Software Services.

Professional Services. In the event Customer wishes to receive implementation, configuration, customization, integration, or other professional services under this Agreement ("**Professional Services**"), such Professional Services (including any corresponding statement of work or similar ordering document) shall be subject to the terms and conditions of this Agreement, and be deemed incorporated into and made a part of this Agreement by reference.

## **INTELLECTUAL PROPERTY**

As between the Parties, LiveU is, and shall be, the sole and exclusive owner of all Intellectual Property Rights in and to: (a) the LiveU Materials; and (b) any Enhancements to any LiveU Materials, regardless of authorship or inventorship. To the extent any Intellectual Property Rights in and to any Enhancements to LiveU Materials do not automatically vest in LiveU, Customer hereby irrevocably assigns (and agrees to

assign) to LiveU (or its designee) such Intellectual Property Rights. Furthermore, Customer recognizes and agrees that, without limitation, all internal hardware, software, and functionality not readily visible from external view of the Product constitute trade secrets belonging to LiveU and/or its licensors, and that efforts to determine such internal hardware, software or functionality may constitute misappropriation of trade secrets. If Customer provides any suggestions or similar feedback to LiveU or its Affiliates concerning any LiveU Materials ("**Feedback**"), Customer hereby grants to each of LiveU and its Affiliates a non-exclusive, perpetual, irrevocable, royalty-free, fully paid-up, worldwide, sublicensable (through multiple tiers), assignable license to use, reproduce, make (and have made), import, disclose, distribute, create derivative works of, modify, adapt, and otherwise commercially exploit such Feedback without restriction or obligation.

## **PAYMENT TERMS**

Unless expressly specified otherwise in the Order: (a) LiveU may invoice Customer following execution of the Order; (b) payment shall be made by Customer within thirty (30) days from the date of invoice; (c) amounts are quoted, and shall be paid, in United States dollars (US\$), and payment shall be made by wire transfer to the bank account set forth in the Order; (d) payments are non-refundable, non-cancellable, and without any right of set-off; (e) any amount not paid when due will accrue interest on a daily basis until paid in full, at the lesser of the rate of one and a half percent (1.5%) per month, and the highest amount permitted by applicable law; and (f) the prices therein are exclusive of freight, insurance, all applicable taxes (such as VAT and GST), customs, duties and other shipping expenses and charges (except for taxes based on LiveU's net income), and all the foregoing shall be solely borne by Customer. To the extent an Order contains any credit terms, LiveU reserves the right to change such credit terms upon written notice at any time at its sole discretion.

If Customer is required by Law to make any deduction or to withhold from any sum payable to LiveU, then the sum payable by LiveU, upon which the deduction or withholding is based, shall be increased to the extent necessary to ensure that, after all deduction and withholding, LiveU receives and retains, free from liability for any deduction or withholding, a net amount equal to the amount LiveU would have received and retained in the absence of the required deduction or withholding.

## **LIMITED WARRANTY**

Limited Warranty. LiveU warrants that during the applicable Warranty Period (defined below):

- (a) the Product shall be free from material defects in materials and workmanship, subject to normal and intended use and service (the "**Product Warranty**"); and
- (b) the Software Product shall, in all material respects, perform the functions described in the applicable Documentation (the "**Software Warranty**").

In the event of any Product Warranty and/or Software Warranty breach within the Warranty Period (each, a "**Defective Item**"), and provided Customer has notified LiveU via email (to the email addresses specified below) of the defect promptly after discovery thereof, LiveU shall first determine whether the defect can be resolved via any Support Services (to the extent Customer has an existing Support Package), and Customer shall fully cooperate with LiveU in such efforts. If there is no existing Support Package, or if LiveU determines that Support Services cannot resolve the defect, LiveU shall (at its sole option, and at no additional charge):

- (i) repair the Defective Item (or part thereof) or replace the Defective Item (or part thereof) with new or refurbished Products (or parts) or Software Products, as the case may be; or
- (ii) in the event the Defective Item is a Product, terminate this Agreement, and (A) if it has been purchased, refund the purchase price paid for such Product, less one-thirty-sixth (1/36) thereof for each month that Customer made use of the Product, or (B) if it has been leased, refund the lease

fees for any period for which Customer prepaid in advance but did not make use of the Product because of such defect.

The foregoing (i) and (ii) represents Customer's sole and exclusive remedy, and LiveU's sole and exclusive liability, for any breach of the Product Warranty or Software Warranty. In the event LiveU repairs or replaces a Defective Item pursuant to this Section, the Product Warranty or Software Warranty (as applicable) shall remain in force for the remainder of the original warranty period, as then in effect.

For Customers located outside the US and Latin America, Warranty notifications must be sent to: [support@liveu.tv](mailto:support@liveu.tv).

For Customers located within the US and Latin America, Warranty notifications must be sent to: (a) [solo.help@liveu.tv](mailto:solo.help@liveu.tv), in respect of the *Solo* Product; and (b) [help@liveu.tv](mailto:help@liveu.tv) (for US) or [soporte@liveu.tv](mailto:soporte@liveu.tv) (for Latin America) in respect of all other Products and Software Products.

Warranty Period. Unless the Order specifies a different warranty period, the "**Warranty Period**" shall be as follows: (a) for a Product, twelve (12) months commencing upon the date of activation of the Product by LiveU; or (b) for a Software Product, ninety (90) days commencing upon the date of activation of the Software Product by LiveU.

Warranty Returns for Products. Defective Products will be returned to LiveU FOB (Incoterms 2010) LiveU's shipping location, shipping charges prepaid. Title to any returned defective Products will pass to LiveU upon receipt. No returns will be made without Customer first obtaining a *Return Material Authorization (RMA)* ticket and number ("**RMA Ticket**") from LiveU. Defective Products returned to LiveU without an RMA Ticket will be returned unopened, at Customer's sole risk, cost and expense, or otherwise discarded. When requesting an RMA Ticket, Customer shall provide the following information: (a) a detailed description of the nature of the defect, and the reason for the return; (b) model and serial number for each unit to be returned, and (c) applicable LiveU invoice number and date. The RMA Ticket information (as well as other information and markings instructed by LiveU) shall be marked on the parcel, which Customer shall package in its original packaging, unless permitted otherwise in writing by LiveU, in which case Customer shall package it to reasonably accepted commercial standards for electronic equipment. LiveU will pay shipping charges for delivery of repaired or replaced Products back to Customer, provided that if LiveU reasonably deems, in its sole discretion, that the returned defective Product was not covered by the Product Warranty or was subject to a Warranty Exclusion (defined below), Customer will pay all return shipping charges.

Warranty Service Exclusions. Each of the Product Warranty and Software Warranty excludes, and LiveU shall have no responsibility or liability hereunder to support, service or respond to, any and all of the following (each, a "**Warranty Exclusion**"): (a) Products or Software Products that have been altered, reconfigured or modified by Customer or any third party other than LiveU's authorized customer support personnel; (b) Products or Software Products not installed by LiveU's authorized customer support personnel; (c) failure by Customer to promptly implement a Firmware Update and/or comply with a Replacement Notice, as required by this Agreement; or (d) defects or other damage caused by negligence, abuse, neglect, or use other than as specified in the Documentation, or by natural disasters or other factors beyond the reasonable control of LiveU. Any services provided by LiveU in connection with the foregoing shall be charged at LiveU's then-current rates. For the avoidance of doubt, and notwithstanding anything to the contrary in this Agreement, under no circumstances shall LiveU be liable for any loss or theft of any Product following delivery to Customer (except that if Customer has leased a Product and the Lease Period is still in effect, Customer may obtain a replacement Product in such event, upon payment of the applicable Replacement Fee).

## **WARRANTY DISCLAIMER.**

EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL LIVEU MATERIALS ARE DELIVERED TO CUSTOMER "AS IS", WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATION, WARRANTY, GUARANTEE OR CONDITION OF ANY KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET POSSESSION, NON-INFRINGEMENT, TITLE, QUALITY OF SERVICE, OR THAT OTHERWISE ARISE FROM A COURSE OF PERFORMANCE OR DEALING, OR USAGE OF TRADE, ALL OF WHICH ARE HEREBY DISCLAIMED BY LIVEU AND ITS LICENSORS AND SUPPLIERS.

IN ADDITION: (i) NEITHER LIVEU NOR ITS LICENSORS OR SUPPLIERS MAKE ANY REPRESENTATION, WARRANTY, GUARANTEE OR CONDITION: (A) REGARDING THE EFFECTIVENESS, USEFULNESS, RELIABILITY, AVAILABILITY, TIMELINESS, ACCURACY, OR COMPLETENESS OF ANY OF THE LIVEU MATERIALS; (B) THAT CUSTOMER'S USE OF, OR RELIANCE UPON, ANY OF THE LIVEU MATERIALS WILL MEET CUSTOMER'S REQUIREMENTS OR EXPECTATIONS; (C) THAT ANY OF THE LIVEU MATERIALS WILL BE UNINTERRUPTED, SECURE, OR ERROR-FREE; OR (D) REGARDING THE SATISFACTION OF, OR COMPLIANCE WITH, ANY LAWS, OR OTHER GOVERNMENT OR INDUSTRY REGULATIONS OR STANDARDS; and (ii) CUSTOMER ACKNOWLEDGES AND AGREES THAT LIVEU IS NOT RESPONSIBLE AND CANNOT CONTROL THE OPERATION OF ANY CELLULAR NETWORK(S) OR THE PASSING OF OR TRANSMISSION OF INFORMATION VIA ANY NETWORKS, AND THAT NEITHER PRODUCTS NOR ANY OTHER PRODUCTS OR SERVICES PROVIDED BY LIVEU ARE FAULT-TOLERANT OR DESIGNED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, AND LIVEU EXPRESSLY DISCLAIMS ANY LIABILITY OR EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH USE.

Some jurisdictions' Laws do not allow the disclaimer of certain implied warranties or conditions, and to the extent applicable to Customer, then, at LiveU's option, such disclaimers shall either not apply, or LiveU limits the duration of such warranties and conditions to the shortest duration (from date of delivery of the Product or Software Product) permitted by such jurisdictions' Laws.

## **LIMITATION OF LIABILITY**

IN NO EVENT WILL LIVEU, ITS AFFILIATES, OR ANY LICENSOR OR SUPPLIER OF LIVEU, BE LIABLE UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT, FOR: (A) ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES; (B) ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REVENUE, OR LOSS OF ANTICIPATED SAVINGS; (C) ANY LOSS OF, OR DAMAGE TO, DATA, REPUTATION, OR GOODWILL; AND/OR (D) THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICES, OR OTHER COST OF COVER. FURTHERMORE, LIVEU SHALL HAVE NO LIABILITY WHATSOEVER UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT, INCLUDING THIRD PARTY CLAIMS RELATING TO THIS AGREEMENT, FOR ANY DAMAGES OR LOSSES (INCLUDING, WITHOUT LIMITATION, DIRECT DAMAGES AND LOSSES) IN THE EVENT THAT CUSTOMER FAILS TO PROMPTLY IMPLEMENT A FIRMWARE UPDATE AND/OR COMPLY WITH A REPLACEMENT NOTICE.

THE COMBINED AGGREGATE LIABILITY OF LIVEU AND ANY LIVEU AFFILIATE UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT SHALL NOT EXCEED THE FOLLOWING: (A) TO THE EXTENT LIABILITY RELATES TO PROFESSIONAL SERVICES, THE

AMOUNT ACTUALLY PAID BY CUSTOMER FOR SUCH PROFESSIONAL SERVICES; (B) TO THE EXTENT LIABILITY RELATES TO SUPPORT SERVICES, THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR SUCH SUPPORT SERVICES; AND (C) FOR ANY OTHER LIABILITY, THE LOWER OF (i) THE AMOUNT ACTUALLY PAID BY CUSTOMER TO LIVEU UNDER THE ORDER, OR (ii) THE AMOUNT ACTUALLY PAID BY CUSTOMER TO LIVEU WITHIN THE THREE (3) MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

THE FOREGOING EXCLUSIONS AND LIMITATION SHALL APPLY: (A) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW; (B) EVEN IF LIVEU HAS BEEN ADVISED, OR SHOULD HAVE BEEN AWARE, OF THE POSSIBILITY OF LOSSES, DAMAGES, OR COSTS; (C) EVEN IF ANY REMEDY IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE; AND (D) REGARDLESS OF THE THEORY OR BASIS OF LIABILITY, WHETHER BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE.

Some jurisdictions' Laws do not allow the exclusion or limitation of incidental or consequential damages, or of other damages, and to the extent applicable to Customer, such exclusions and limitations shall not apply.

## **CONFIDENTIALITY.**

Each Party (the "**Recipient**") may have access to certain non-public or proprietary information and materials of the other Party (the "**Discloser**"), whether in tangible or intangible form ("**Confidential Information**"). As between the Parties, all Confidential Information and derivatives thereof (as well as any Intellectual Property Rights therein/to) are and shall remain the sole and exclusive property of the Discloser. Confidential Information shall not include information and material which: (a) at the time of disclosure by Discloser to Recipient hereunder, is in the public domain; (b) after disclosure by Discloser to Recipient hereunder, becomes part of the public domain through no fault of the Recipient; (c) was rightfully in the Recipient's possession at the time of disclosure by the Discloser hereunder, and which is not subject to prior continuing obligations of confidentiality; (d) is rightfully disclosed to the Recipient by a third party having the lawful right to do so; or (e) independently developed by the Recipient without use of, or reliance upon, Confidential Information received from the Discloser. The Recipient shall not disclose the Discloser's Confidential Information to any third party, except to its employees, advisers, Partners and investors, subject to substantially similar written confidentiality undertakings). Recipient shall take commercially reasonable measures, at a level at least as protective as those taken to protect its own Confidential Information of like nature (but in no event less than a reasonable level), to protect the Discloser's Confidential Information within its possession or control, from disclosure to a third party. The Recipient shall use the Discloser's Confidential Information solely for the purpose of performing under this Agreement. In the event that Recipient is required to disclose Confidential Information of the Discloser pursuant to any Law or judicial or governmental order, the Recipient will (i) promptly notify Discloser in writing of such Law or order, (b) reasonably cooperate with Discloser in opposing such disclosure, (c) only disclose to extent required by such Law or order (as the case may be). Customer acknowledges that unauthorized disclosure or use of LiveU's Confidential Information will cause irreparable harm and significant injury to LiveU that may be difficult to ascertain; accordingly, Customer agrees that LiveU, without prejudice to any other right or remedy that it may have available to it at law or in equity, will have the right to seek and obtain immediate equitable relief to enforce the rights and obligations contained herein, without the necessity of proving actual damages, posting bond, or making any undertaking in connection therewith.

## **TERMINATION**

Each Party may terminate this Agreement if the other Party fails to perform any material obligation under this Agreement (including without limitation any payment obligation), and such failure (if capable of remedy) remains uncured for more than thirty (30) days after receipt of written notice thereof. Termination



of this Agreement shall not affect any rights or liabilities that accrued as of the effective date of termination. Upon termination of this Agreement: (a) except for a purchased Product, Customer shall (as directed) return and/or permanently delete all LiveU Materials and certify compliance therewith in writing; (b) except for the Firmware License under a purchased Product and the corresponding Documentation License, the License shall automatically terminate and be deemed revoked, and Customer shall cease all use thereof; and (c) Sections DEFINITIONS AND INTERPRETATION, INTELLECTUAL PROPERTY, LIMITED WARRANTY, WARRANTY DISCLAIMER, LIMITATION OF LIABILITY, CONFIDENTIALITY, TERMINATION, GOVERNING LAW AND DISPUTE RESOLUTION and MISCELLANEOUS shall survive, as shall any provision that ought by its nature to survive. **GOVERNING LAW AND DISPUTE RESOLUTION** This Agreement (including its validity) shall be governed by, and construed in accordance with, the laws of the State of Israel, without regard to any conflicts of laws rules or principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement and is hereby disclaimed. If, however, LiveU is **LiveU, Inc.**, then the aforesaid governing law shall be substituted with the "**State of New Jersey, USA**".

Any claim, dispute or controversy under, or otherwise in connection with, this Agreement shall be subject to the exclusive jurisdiction and venue of the courts located in Tel Aviv-Jaffa, Israel, and Customer hereby irrevocably and unconditionally submits to the personal jurisdiction of such courts and waives any jurisdictional, improper venue, inconvenient forum, or other objections to such jurisdiction and venue. If, however, LiveU is **LiveU, Inc.**, then the aforesaid courts shall be substituted with the "**competent courts of the State of New Jersey, USA**".

Notwithstanding the foregoing, LiveU reserves the right to seek equitable relief in any court worldwide of competent jurisdiction. Furthermore, Customer:

- (a) **agrees that any proceedings to resolve or litigate any claim, dispute or controversy will be conducted solely on an individual basis (and not in any class action or class-wide proceeding), and that Customer may initiate such proceedings only on its own behalf;**
- (b) **hereby irrevocably and unconditionally waives the right to litigate such claims, disputes, or controversies in court before a jury; and**
- (c) **agrees not to participate in claims, disputes, or controversies brought in an attorney general or representative capacity, or in consolidated claims, disputes, or controversies involving another person's claim, dispute, or controversy.**

## **MISCELLANEOUS**

Entire Agreement. Except in the case of an Existing Agreement (as described in the introduction to this Agreement), this Agreement represents the entire agreement between LiveU and Customer with respect to the subject matter hereof, and supersedes and replaces any and all prior and contemporaneous oral and/or written agreements, understandings and statements between LiveU and Customer with respect to such subject matter. Customer acknowledges and agrees that in entering into this Agreement it has not relied on any statement or representation (whether negligently or innocently made) not expressly set out in this Agreement; for example, statements and explanations in any FAQs or other marketing material on the LiveU website are for convenience only, and are not binding on LiveU. LiveU reserves the right to modify this Agreement at any time by posting the modified Agreement on its website (or any successor domain). Such modifications will be effective ten (10) days after such posting, and any outstanding purchase orders in effect on such date shall be subject to the modified Agreement and Customer agrees to be bound thereby. The language of this Agreement is expressly agreed to be the English language. By entering into the Agreement Customer hereby irrevocably waives, to the maximum extent legally permitted, any Law applicable to Customer requiring that the Agreement be localized to meet Customer's language, as well as any other localization requirements. Customer shall look only to LiveU (i.e., the LiveU entity that has

accepted the Order and entered into this Agreement with Customer), for the performance of any obligations on the part of LiveU, and under no circumstances shall any other LiveU entity be responsible or liable for the obligations of LiveU.

Assignment. LiveU may assign this Agreement (or any of its rights and obligations hereunder), without restriction or further obligation. This Agreement is personal to Customer, and Customer shall not assign this Agreement (or any of its obligations or rights thereunder) without LiveU's express prior written consent. Any prohibited assignment shall be null and void. Subject to the foregoing, this Agreement binds and benefits each Party and its respective successors and assigns. At LiveU's sole discretion, any LiveU obligation hereunder may be performed (in whole or in part), and any LiveU right or remedy may be exercised (in whole or in part), by an LiveU Affiliate.

Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, then: (a) the remaining provisions of this Agreement shall remain in full force and effect; and (b) such affected provision shall be ineffective solely as to such jurisdiction (and only to the extent and for the duration of such invalidity, illegality, or unenforceability), and shall be substituted (in respect of such jurisdiction) with a valid, legal, and enforceable provision that most closely approximates the original legal intent and economic impact of such provision.

Remedies. Except as stated otherwise in this Agreement, no right or remedy conferred upon or reserved by any party under this Agreement is intended to be, or shall be deemed, exclusive of any other right or remedy under this Agreement, at law or in equity, but shall be cumulative of such other rights and remedies.

Reference Customer. LiveU may use Customer's name and logo on LiveU's website and in its promotional materials to indicate that Customer is a customer of LiveU.

Waiver. No failure or delay on the part of any Party in exercising any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. Any waiver granted hereunder must be in writing (for waivers by Customer, emails will be acceptable; for waivers by LiveU, the writing must be duly signed by an authorized representative of LiveU), and shall be valid only in the specific instance in which given.

Relationship. The relationship of the Parties is solely that of independent contractors. Nothing in this Agreement shall be deemed to create any employment, fiduciary, joint venture, agency or other relationship between the Parties.

Notices. All notices or other communications provided for in this Agreement shall be in writing and shall be given in person, by courier, by facsimile, electronic mail or by registered or certified mail, postage prepaid, addressed as set forth in the Order. All notices and other communications delivered in person or by courier service shall be deemed to have been given as of one business day after sending thereof, those given by facsimile transmission with confirmation or receipt shall be deemed to have been given as of the date of transmission thereof (provided that such date is a business day in the country of receipt and if not, the next business day) and all notices and other communications sent by registered mail shall be deemed given three (3) days after posting. Notices sent by electronic mail shall be deemed received upon receipt of such electronic mail message.

No Third Party Beneficiaries. Except as expressly stated otherwise herein, there shall be no third-party beneficiaries of or under this Agreement.

Export Compliance. Customer shall not transfer, export, re-export, import, re-import or divert any LiveU Materials or other technical data in violation of any Export Control Laws, as well as any applicable import and use restrictions, all as then in effect, and shall not transfer, export, re-export, import, re-import or divert any LiveU Materials to Lebanon, Syria, Iran, Iraq, Sudan, Yemen, Cuba, or North Korea (or other countries

specifically designated in writing by LiveU from time to time). In the event Customer breaches the foregoing sentence (in whole or in part), it shall indemnify and hold harmless LiveU for any fine or penalty imposed upon LiveU and/or its Affiliates (as well as their respective personnel) as a result of such breach.

Force Majeure. Except for payment obligations, neither Party shall be responsible for any failure or delay to perform any obligation hereunder because of any (a) act of God, (b) war, riot or civil commotion, (c) governmental acts or directives, strikes or concerted labor action, work stoppage, or shortages of materials, equipment or facilities, and/or (d) other similar cause beyond such Party's reasonable control. For the avoidance of doubt, any problems relating to the hosting of any Software Services shall not be deemed within LiveU's reasonable control.

Wireless and Software Services. WITH RESPECT TO SOFTWARE SERVICES, AS WELL AS WIRELESS SERVICES (WHEN DELIVERED WITH A PRODUCT), PROVIDED OR OPERATED BY THIRD PARTY SERVICE PROVIDERS (SUCH AS THIRD PARTY NETWORK OPERATORS, CARRIERS, AND CLOUD HOSTING PROVIDERS), CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS, AND THAT CUSTOMER IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN LIVEU AND THE UNDERLYING SERVICE PROVIDER. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE UNDERLYING SERVICE PROVIDER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER, AND CUSTOMER HEREBY IRREVOCABLY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR OR IN CONNECTION THEREWITH. CHANGES TO AVAILABILITY (INCLUDING AVAILABILITY IN ANY PARTICULAR COUNTRY), RATE INCREASES, AND CHANGES TO TERMS AND CONDITIONS MADE BY SUCH SERVICE PROVIDER(S) MAY BE FLOWED DOWN AND APPLIED BY LIVEU TO CUSTOMER, BACK-TO-BACK, WITH PRIOR WRITTEN NOTICE.

US Government Users. If Customer is an agency or instrumentality of the United States Government, Customer agrees that the Software and Documentation are “commercial computer software” and “commercial computer software documentation,” respectively; that LiveU’s rights therein are subject to this Agreement, pursuant to FAR 12.212 and/or DFARS 227.7202-1 and 227.7202-3, as applicable, or successor regulations; and that Customer’s rights shall apply only to the specific agency and program for which the Software and Documentation are obtained.

Counterparts. The Order may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

FUDP. As part of LiveU’s various data plans, in case a Customer is under the terms of Fair Usage Data Plan (“FUDP”), FUDP include terms that are applicable to Customer’s territory. FUDP allow monthly data usage and total data usage under LiveU Policy. FUDP is subject to an average fair usage limit per pooled LiveU’s Product/s of 50GB per month, unless agreed differently between LiveU and Customer. In addition, LAN/WIFI usage on LiveU Products does not count toward the average fair usage calculation. In case Customer exceeds an average of 50GB per month per pooled LiveU Product/s for more than three (3) times, LiveU may decrease the performance of the data, and Customer and LiveU shall agree on a new monthly lease rate on mutually agreed terms.

## LIVEU STANDARD TERMS AND CONDITIONS FOR RENTALS

These LiveU Standard Terms and Conditions (the “**Agreement**”) set forth the terms and conditions governing (a) Customer's rental of Hardware Materials from LiveU; and (b) LiveU's performance of Support Services, in each case as may be specified in a Purchase Order (all the foregoing capitalized terms defined below). This Agreement constitutes an integral part of the Purchase Order. No provisions of any Customer order form, acknowledgment or other business form that Customer may use will have any effect on the rights and obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of LiveU to object to such provisions, and such provisions are hereby rejected by the parties. LiveU's acceptance of any Purchase Order is expressly made conditional upon Customer's acceptance of the terms and conditions set forth herein without modification or addition. LiveU shall not be deemed to have accepted any terms or conditions in a Purchase Order based on a prior course of dealing.

LiveU reserves the right to modify this Agreement at any time by posting the modified Agreement on our website (or any successor domain). Such modifications will be effective ten (10) days after such posting, and any outstanding Purchase Orders in effect on such date shall be subject to the modified Agreement and Customer agrees to be bound thereby.

### **Definitions.**

“**Customer**” means the customer whose name appears on the Purchase Order.

“**Device**” means each hardware device on which the Software may be installed, including without limitation any Hardware furnished by LiveU.

“**Effective Date**” means the date of execution of the Purchase Order.

“**Hardware Materials**” means the LiveU Products and related accessories (such as SIM cards) listed under a Purchase Order.

“**LiveU**” means the LiveU entity whose name appears on the Purchase Order, which entity shall be either LiveU Ltd. or LiveU, Inc.

“**LiveU Products**” means, collectively, LiveU products listed in **Exhibit A** hereto, including their respective documentation and embedded software components.

“**Purchase Order**” means the ordering document or written communication (such as email) which is used to order a rental of Hardware Materials and/or Support Services under this Agreement, and which has been expressly approved by the parties.

“**Support Services**” means those support services (if any) detailed in the LiveU quote.

“**Territory**” means the territory specified in the Purchase Order.

### **Hardware Rentals.**

Customer may rent Hardware Materials from LiveU, as mutually agreed in a Purchase Order. Delivery of the Hardware Materials to Customer shall be in accordance with the delivery terms set forth in the Purchase Order and may include delivery via LiveU's local distributor (to the extent Customer has a relationship with such distributor), and Customer shall fully cooperate with LiveU in connection with such delivery. Subject to such cooperation, LiveU shall make commercially reasonable efforts to adhere to any quoted delivery dates in the Purchase Order, but shall not be liable for any direct or indirect damage or loss that the Customer may incur as a result of a delay. In the event Customer cancels the Purchase Order prior to the quoted delivery date stated in the Purchase Order, Customer shall pay LiveU the cancellation fee set out in the **Exhibit A** attached below.

Subject to Customer's commitment of payment of the applicable rental fees stated in the Purchase Order (“**Rental Fees**”), Customer shall have the right to use such Hardware Materials in the Territory in accordance with the terms hereof for the rental period specified in the applicable Purchase Order (the “**Rental Period**”). For the avoidance of doubt, the accompanying documentation and embedded software components are only licensed to Customer (in object code only) for the period of the Rental Period, and on a non-exclusive basis for use solely as embedded in the Hardware Materials. [Upon expiration of the

Rental Period, Customer shall immediately return the Hardware Materials to LiveU (or the designated collection point) in the same condition in which they were provided to Customer by LiveU, less reasonable wear and tear. In the event any loss, theft, or damage, Customer shall be responsible for such loss, theft or damage and shall pay LiveU as follows: in the case of loss or theft, the full replacement fee per the then-current LiveU Product price list (the “**Replacement Fee**”), and in the case of damage, the costs to repair such damage, as determined by LiveU (the “**Repair Fee**”). No loss, theft or damage shall relieve Customer of the obligation to pay Rental Fees. Customer shall notify LiveU in writing within two (2) days after any such loss, theft or damage becomes known to Customer, and Customer shall pay the Replacement Fee or Repair Fee, as applicable, to LiveU (as determined by LiveU) within thirty (30) days after receiving an invoice from LiveU for such fees. In the case of repairs, Customer shall bear the costs of shipment of the damaged unit to LiveU and return shipment of the repaired unit. If the Rental Period is still in effect when the lost, stolen or damaged Hardware Materials are received by LiveU, LiveU shall make commercially reasonable efforts to provide a replacement unit for the remainder of the Rental Period. In the event the Hardware Materials are returned late (whether in whole or in part), Customer shall pay LiveU a late fee equal to Five Hundred US Dollars (\$500) per day, which Customer agrees to pay within thirty (30) days after receiving an invoice from LiveU therefor.

Customer shall not remove, alter, or deface any of the trademarks, trade names, logos, patent or copyright notices or markings, or other proprietary legends on or in, or add any other notices, markings, or legends to, the Hardware Materials.

**LiveU Product Restrictions.** Customer may not, directly or indirectly (i) sell, assign, lease, rent, distribute, market, sublicense, or otherwise transfer any Hardware Materials; (ii) modify, adapt, translate, or create derivative works of, reverse engineer, decompile, disassemble, or derive or attempt to derive the source code or underlying algorithms or ideas of any Hardware Materials by any means, except and only to the extent, that such activity is required to be permitted by applicable law notwithstanding this limitation and is not subject to contractual waiver; or (iii) use any Hardware Materials in a time-sharing or service bureau arrangement, or in any unlawful manner.

**Export.** Customer agrees to use the Hardware Materials in compliance with all laws and regulations applicable to Customer. Without limiting the generality of the foregoing sentence, Customer shall not use or otherwise export or re-export any Hardware Materials (or part thereof) in violation of any Export Control Laws.

**"Export Control Laws"** means all export and re-export control laws, regulations and rules applicable to Customer, as well as Israeli export control laws, regulations and rules, and the United States' Export Administration Regulations (EAR) maintained by the US Department of Commerce, trade and economic sanctions maintained by the US Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations (ITAR) maintained by the US Department of State. Customer will provide LiveU with copies of any export registrations and filings with the United States or Israeli government. The Territory excludes any countries where access and/or use is prohibited by U.S. or Israeli law.

### **Fees and Payment Terms.**

The Rental Fees will be invoiced and paid in accordance with the payment terms and in the currency set out in the Purchase Order. Unless the Purchase Order expressly provides otherwise, payments are non-refundable, non-cancellable, and are without any right of set-off.

Overdue payments shall accrue interest at the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law. In the event of late payment, Customer will also be responsible for all costs associated with collecting the outstanding amounts, including reasonable attorney's fees.

All prices set forth herein and in any Purchase Order are exclusive of all duties and taxes, such as, without limitation, sales, use, excise or value added taxes and withholding taxes, and other government assessments

(collectively, “**Taxes**”), and Customer shall be responsible for all Taxes (except Taxes on LiveU's net income). The prices represent the net amounts to be retained by LiveU free of any liability for withholding or deduction, and shall, if applicable, be grossed-up accordingly.

**Ownership.**

As between the parties, LiveU is and shall remain the sole and exclusive owner of all title and intellectual property rights in and to the Hardware Materials, as well as any updates, modifications, customizations, enhancements, or other derivatives thereof. Customer acknowledges and agrees that the underlying algorithms, ideas, structure, sequence and organization of the software components of the LiveU Product (other than their open source components) are the valuable trade secrets of LiveU and/or its licensors.

As between the parties, LiveU shall be the sole and exclusive owner of all title and intellectual property rights in and to any Feedback provided to LiveU and derivative works thereof. To the extent any such intellectual property rights do not automatically vest in LiveU, Customer hereby assigns and agrees to assign (and to procure from its personnel the assignment of) such intellectual property rights to LiveU, and Customer shall execute such further instruments reasonably requested by LiveU to perfect LiveU's ownership of such intellectual property rights. Customer shall not disclose to any third party, or otherwise publish, any Feedback. “**Feedback**” means ideas, suggestions, or similar feedback about performance of any Hardware Materials and/or for improving same. Customer hereby represents and warrants that Feedback will not infringe, misappropriate or violate any third party's intellectual property rights.

**Third Party Components.** The Hardware Materials use third party hardware and software components, including open source software (“**Third Party Components**”). Third Party Components are delivered by LiveU as-is, and the terms and conditions associated with such components (which Customer acknowledges it shall be bound by) are provided with the Third Party Components, posted online and/or otherwise supplied as required, and to the extent of any conflict between such terms and conditions and this Agreement, the former shall govern with respect to the Third Party Component. Any covenants, representations, warranties, guarantees, conditions, indemnities or other commitments made by LiveU under this Agreement concerning the Hardware Materials (if any), are made by LiveU and not by any authors, licensors, or suppliers of, or contributors to, such Third Party Components. Notwithstanding the foregoing sentence or anything in this Agreement to the contrary, LiveU does not make any representation, warranty, guarantee, or condition, and does not undertake any defense or indemnification, with respect to any Third Party Components.

**Confidentiality.** Each of LiveU and Customer (the “**Recipient**”) may have access under this Agreement to certain non-public or proprietary information or materials of the other party (the “**Discloser**”), whether in tangible or intangible form (“**Confidential Information**”). Without derogating from any other obligation in this Agreement, Customer will treat Hardware Materials as LiveU's Confidential Information. Confidential Information will not include information or material which Recipient can demonstrate: (a) was in the public domain at the time of disclosure by Discloser to Recipient hereunder; (b) became part of the public domain after disclosure by Discloser to Recipient hereunder, through no fault of Recipient; (c) was in the Recipient's possession at the time of disclosure by the Discloser hereunder, and was not subject to prior continuing obligations of confidentiality by Recipient to Discloser; (d) was rightfully disclosed to the Recipient by a third party having the lawful right to do so; and/or (e) was independently and rightfully developed by the Recipient without (direct or indirect) use of, or reliance upon, Discloser's Confidential Information.

Recipient will use the Discloser's Confidential Information solely for the purpose of Recipient performing its obligations and/or exercising its rights under this Agreement. Recipient will not disclose or make available the Discloser's Confidential Information to any third party, except to its employees and agents that have a need to know such information and that are bound by obligations at least as protective as provided herein. Each party acknowledges that in the event of a breach or threatened breach of this Section (*Confidentiality*) by the other party, the non-breaching party may suffer irreparable harm or damage for

which monetary damages will be inadequate, and will, therefore, be entitled to injunctive relief and specific performance to enforce the obligations under this Section (*Confidentiality*) without the need to post a bond.

### **Term and Termination.**

This Agreement commences on the Effective Date and will remain in full force and effect until expiration of the Rental Period, unless terminated by either Party in accordance herewith (the "**Term**").

Either party may terminate this Agreement if the other party fails to perform any material obligation hereunder.

Upon any termination or expiration of this Agreement:

The Purchase Order shall terminate;

Customer shall immediately return all Hardware Materials to LiveU in accordance with Section 2.22 (*Hardware Rentals*) above;

Each party shall promptly return to the other party all Confidential Information of such other party in its possession, or if so requested by such other party, destroy or permanently delete the Confidential Information and certify to the other party that it has done so; and

Termination or expiration of this Agreement shall not affect any right or liability accrued by either party as of the effective date of termination or expiration. Any provision in this Agreement that is stated to survive termination, shall survive, as will Section 6 (*Ownership*) and Sections 8 (*Confidentiality*) through 21 (*Force Majeure*).

**Disclaimer of Warranties.** THE HARDWARE MATERIALS (INCLUDING WITHOUT LIMITATION ALL SOFTWARE AND DOCUMENTATION), AS WELL AS ANY OTHER ITEMS PROVIDED OR MADE AVAILABLE BY LIVEU, ARE PROVIDED AND MADE AVAILABLE TO CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS AND WITH ALL FAULTS, WITHOUT ANY REPRESENTATION, WARRANTY, GUARANTEE OR CONDITION OF ANY KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, TITLE, OR THAT OTHERWISE ARISE FROM A COURSE OF PERFORMANCE OR DEALING, OR USAGE OF TRADE, ALL OF WHICH ARE HEREBY DISCLAIMED BY LIVEU AND ITS SUPPLIERS.

WITHOUT DEROGATING FROM THE ABOVE, CUSTOMER ACKNOWLEDGES AND AGREES THAT LIVEU IS NOT RESPONSIBLE AND CANNOT CONTROL THE OPERATION OF ANY CELLULAR NETWORK(S) OR THE PASSING OF OR TRANSMISSION OF INFORMATION VIA ANY NETWORKS. NEITHER THE HARDWARE MATERIALS NOR ANY OTHER PRODUCTS OR SERVICES PROVIDED BY LIVEU ARE FAULT-TOLERANT OR DESIGNED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, AND LIVEU EXPRESSLY DISCLAIMS ANY LIABILITY OR EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH USE.

### **Limitation of Liability**

IN NO EVENT SHALL LIVEU, ITS AFFILIATES, OR SUPPLIERS BE LIABLE UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT, FOR:

(A) ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES;

(B) ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REVENUE, OR LOSS OF ANTICIPATED SAVINGS;

(C) ANY LOSS OF, OR DAMAGE TO, DATA, REPUTATION, OR GOODWILL; AND/OR

(D) THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICES.

THE COMBINED AGGREGATE LIABILITY OF LIVEU AND ALL ITS AFFILIATES UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT SHALL NOT EXCEED THE RENTAL FEES PAID BY THE CUSTOMER UNDER THE PURCHASE ORDER TO WHICH THE LIABILITY

RELATES IN THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY.

THE FOREGOING EXCLUSIONS AND LIMITATIONS SHALL APPLY: (A) EVEN IF LIVEU OR ONE OF ITS AFFILIATES HAS BEEN ADVISED, OR SHOULD HAVE BEEN AWARE, OF THE POSSIBILITY OF LOSSES, DAMAGES, OR COSTS; (B) EVEN IF ANY REMEDY IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE; AND (C) REGARDLESS OF THE THEORY OR BASIS OF LIABILITY (INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, TORT, NEGLIGENCE AND STRICT LIABILITY).

**Governing Law and Jurisdiction.** If Customer has entered into a Purchase Order with LiveU Ltd., this Agreement shall be governed by, and construed in accordance with, the laws of the State of Israel, without regard to its rules of conflict of laws, and Customer and LiveU hereby consent to exclusive jurisdiction and venue in any and all disputes or claims hereunder in the competent courts located in Tel Aviv-Jaffa, Israel. If Customer has entered into a Purchase Order with LiveU Inc., this Agreement shall be governed by the laws of the State of New Jersey and controlling U.S. federal law, without regard to rules of conflict of laws, and Customer and LiveU hereby consent to the exclusive jurisdiction and venue, over any and all disputes or claims hereunder, in the competent courts located in New Jersey. The United Nations Convention on Contracts for the International Sale of Goods shall not apply and is hereby disclaimed. Notwithstanding the foregoing, LiveU shall be entitled to seek equitable relief in any court worldwide that has competent jurisdiction.

**Entire Agreement.** This Agreement together with the Purchase Order represents the entire agreement of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior and contemporaneous oral or written understandings and statements by the parties with respect to such subject matter. For the avoidance of doubt, this Agreement and the Purchase Order shall not be deemed or construed to derogate from, or add to, any other agreement in effect between the parties as of the Effective Date, which agreement shall continue in full force and effect subject to its terms.

**Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, then: (a) the remaining provisions of this Agreement shall remain in full force and effect; and (b) such affected provision shall be ineffective solely as to such jurisdiction (and only to the extent and for the duration of such invalidity, illegality, or unenforceability), and shall be substituted (in respect of such jurisdiction) with a valid, legal, and enforceable provision that most closely approximates the original legal intent and economic impact of such provision.

**US Government Users.** If Customer is an agency or instrumentality of the United States Government, Customer agrees that the Software and Documentation are “commercial computer software” and “commercial computer software documentation,” respectively; that LiveU’s rights therein are subject to these Terms, pursuant to FAR 12.212 and/or DFARS 227.7202-1 and 227.7202-3, as applicable, or successor regulations; and that Customer’s rights shall apply only to the specific agency and program for which the Software and Documentation are obtained.

**Assignment.** LiveU may assign this Agreement (or any of its rights and obligations hereunder) without Customer's consent and without notice. Customer may not assign this Agreement (or any of its rights or obligations hereunder) without LiveU's prior express written consent. Any prohibited assignment shall be null and void.

**Wireless Service.** IF LIVEU MAKES THE HARDWARE MATERIALS AVAILABLE WITH A WIRELESS SERVICE, CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND THAT CUSTOMER IS NOT



A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN LIVEU AND THE UNDERLYING CARRIER. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER, AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFORE. CHANGES TO AVAILABILITY (INCLUDING AVAILABILITY IN ANY PARTICULAR COUNTRY), RATE INCREASES, AND CHANGES TO TERMS AND CONDITIONS MADE BY WIRELESS SERVICE PROVIDER(S) MAY BE FLOWED DOWN AND APPLIED BY LIVEU TO CUSTOMER, BACK-TO-BACK, WITH PRIOR WRITTEN NOTICE.

**Limit on Responsibility and Liability.** Customer shall look only to the LiveU entity that has agreed to the Purchase Order and entered into an agreement with Customer for the performance of any obligations on the part of LiveU, and under no circumstances will any other LiveU entity be responsible or liable for the obligations of the LiveU entity that has accepted and agreed to the Purchase Order and entered into an agreement with Customer.

**Relationship.** The parties hereto are solely independent contractors, and nothing herein shall be construed as authorizing either party to bind the other in any way or as constituting a party an agent or representative of the other, and no agency, partnership or employment is created by these Terms.

**Waiver.** No failure or delay on the part of any party hereto in exercising any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. Any waiver granted hereunder must be in writing (for waivers by Customer, emails will be acceptable; for waivers by LiveU, the writing must be duly signed by LiveU), and shall be valid only in the specific instance in which given. Any remedies under this Agreement shall be deemed cumulative of all other remedies available at law or in equity.

**Force Majeure.** LiveU shall not be responsible for any failure to perform any obligation or provide any service hereunder because of any (a) act of God, (b) war, riot or civil commotion, (c) governmental acts or directives, strikes, work stoppage, or equipment or facilities shortages, and/or (d) other similar cause beyond LiveU's reasonable control.

#### **Exhibit A**

<b>Cancellation Fees # Days Before Event Start Date</b>	<b>Cancellation Fee</b>
> 90 Days	Free Cancellation
60-90 Days	Up to 25%
30-60 Days	Up to 50%
15-30 Days	Up to 75%
<15 Days	Up to 100%