

**NEW YORK STATE  
 OFFICE OF GENERAL SERVICES  
 NEW YORK STATE PROCUREMENT  
 38th Floor - Corning Tower Building  
 Empire State Plaza  
 Albany, New York 12242**

## Contract Award Notification

<b>Title</b>	<b>:</b>	<b>Group – 79126-Electronic On-line Databases EBSCO Industries Inc. (Formerly EBSCO Publishing Services Classification Code: 83</b>
<b>Award Number</b>	<b>:</b>	<b><u><a href="#">NEG-21099</a></u> (Replaces Award S950168)</b>
<b>Contract Period</b>	<b>:</b>	<b>July 7, 2008 through July 6, 2018</b>
<b>Bid Opening Date</b>	<b>:</b>	<b>September 19, 2007</b>
<b>Date of Issue</b>	<b>:</b>	<b>July 7, 2008</b>
<b>Specification Reference</b>	<b>:</b>	<b>As Incorporated Herein</b>
<b>Contractor Information</b>	<b>:</b>	<b>Appears on Page 2 of this Award</b>

### Address Inquiries To:

<b>All State Agencies</b>	<b>Non-State Agencies</b>
Name: Dana Ferris Title: Contract Management Specialist Phone: 518-474-3166 Fax: 518-486-6867 Email: Dana.ferris@ogs.ny.gov	Name: Customer Services Phone: 518-474-6717 Fax: 518-474-2437 E-mail: customer.services@ogs.ny.gov

### Description

The electronic on-line database contracts provide for an on-line computer based information subscription service for electronic journals, newspapers, books and other electronic information. The services are similar to publisher's printed material, except that it is provided in electronic format directly on-line, with multi-media dimensions not available in the print publications.

EBSCO Publishing provides services via its **EBSCOhost**, a multi-platform, client/server search and retrieval system which is available via the Internet, the World Wide Web or direct connection to provide libraries access to a wide range of bibliographic and full text database packages.

PR #21099

**All Purchase Orders Should Be Made Out To The Following Address:**

<u>CONTRACT #</u>	<u>CONTRACTOR &amp; ADDRESS</u>	<u>TELEPHONE</u>	<u>FED ID #</u>
PS66032	EBSCO Industries Inc. 10 Estes Street Ipswich, MA 01938	(978) 356-6500	63-6014186

**Director of Sales:**

Ed Roche  
(800) 653-2726 Ext. 569  
E-Mail: eroche@ebSCO.com

Cash Discount, If Shown, Should be Given Special Attention.

**INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.**

**(See "Contract Payments" and "Electronic Payments" in this document.)**

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE NEW YORK STATE PROCUREMENT.

**SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:**

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

**RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:**

The New York State Procurement supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

**NOTE TO ALL CONTRACT USERS:**

The terms and conditions of the bid solicitation which apply to the award appear at the end of this document. We strongly advise all contract users to familiarize themselves with all terms and conditions before issuing a purchase order.

**STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
OFFICE OF GENERAL SERVICES**

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**CENTRALIZED CONTRACT FOR THE ACQUISITION OF ELECTRONIC  
ON-LINE DATABASE PRODUCTS AND SERVICES AGREEMENT**

**New York State Contract #**

**PS63618**

**Contractor Reference #**

***EBSCO INDUSTRIES, INC.***

<b>DESIGNATED CONTACTS: Team #12</b>	
Cheri McCullough - Purchasing Officer Telephone No. (518) 474-0212 E-mail <a href="mailto:cheri.mccullough@ogs.ny.gov">cheri.mccullough@ogs.ny.gov</a>	Kathy McAuley - Team Leader Telephone No. (518) 486-6812 Email: <a href="mailto:kathy.mcauley@ogs.ny.gov">kathy.mcauley@ogs.ny.gov</a>

The bid must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this INVITATION FOR BIDS, Appendix A (Standard Clauses For New York State Contracts), Appendix B (OGS General Specifications), and State Finance Law §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, bidder affirms that it understands and agrees to comply with the OGS procedures relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b). Information may be accessed at:

Procurement Lobbying: <http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html>

**THIS CONTRACT** for the acquisition of electronic on-line database products and services is made between the People of the State of New York, acting by and through the Commissioner of the Office of General Services (hereinafter "State" or "OGS") whose principal place of business is the 41st Floor, Corning Tower, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12242, pursuant to authority granted under New York State Finance Law, § 163, and EBSCO Industries, Inc. (hereinafter "Contractor"), with its principal place of business at 10 Estes Street, Ipswich, MA 01938.

**PROCUREMENT LOBBYING TERMINATION:**

OGS reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer/bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, OGS may exercise its termination right by providing written notification to the Offerer/bidder in accordance with the written notification terms of this contract.

**SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING:**

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by OGS and, if applicable, the Office of the State Comptroller

("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated staff, as of the date hereof, is identified on the first page of this solicitation. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website:

<http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html>

**NYS STANDARD VENDOR RESPONSIBILITY QUESTIONNAIRE (Appendix 1):**

Bidder agrees to fully and accurately complete the NYS Standard Vendor Responsibility Questionnaire, which is attached as Appendix 1 (hereinafter the "Questionnaire"). The Bidder acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Bidder is responsible, and that the State will be relying upon the Bidder's responses to the Questionnaire in making that determination. The Bidder agrees that if it is found by the State that the Bidder's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, OGS may terminate the Contract by providing ten (10) days written notification to the Contractor. In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

**TAX LAW 5-A AMENDED APRIL 26, 2006 (Appendix 2):**

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agency, from approving a contract awarded to a contractor meeting the registration requirements but who is not so registered in accordance with the law.

Contractor certification forms and instructions for completing the forms are attached to this bid. Form No. ST-220-TD must be filed with and returned directly to DTF. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s), a new Form No. ST-220-TD must be filed with DTF.

Form ST-220-CA must be filed with the bid and submitted to the procuring covered agency certifying that the contractor filed the ST-220-TD with DTF. Proposed contractors should complete and return the certification forms within two business days of request (if the forms are not completed and returned with bid submission). Failure to make either of these filings may render a bidder non-responsive and non-responsible. Bidders shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law. Vendors may call DTF at **1-800-698-2909** for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF web site: <http://www.nystax.gov>

**INFORMATION SECURITY BREACH AND NOTIFICATION ACT:** Section 208 of the State Technology Law (STL) and Section 899-aa of the General Business Law (GBL) require that State entities and persons or businesses conducting business in New York who own or license computerized data which includes private information including an individual's unencrypted personal information plus one or more of the following: social security number, driver's license number or non-driver ID, account number, credit or debit card number plus security

code, access code or password which permits access to an individual's financial account, must disclose to a New York resident when their private information was, or is reasonably believed to have been, acquired by a person without valid authorization. Disclosure of breach of that private information to all individuals affected or potentially affected must occur in the most expedient time possible without unreasonable delay, after necessary measures to determine the scope of the breach and to restore integrity, but with delay if law enforcement determines it impedes a criminal investigation. When notification is necessary, the State entity or person or business conducting business in New York must also notify the following New York State agencies: the Attorney General, the Office of Cyber Security & Critical Infrastructure Coordination (CSCIC) and the Consumer Protection Board (CPB). Information relative to the law and the notification process is available at: <http://www.cscic.state.ny.us/security/securitybreach/>

### **1. CONTRACT SCOPE / TERM**

This document (hereinafter “Contract” or “Agreement”) sets forth the terms and conditions governing the acquisition of electronic on-line database products and other incidental services (including, but not limited to, consulting and training). Terms used in this document shall have the meanings set forth in Appendix B. Amendments or modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the parties and with the approval of the New York State Attorney General and Comptroller.

The term of this Contract shall be five (5) years commencing on the date of approval by the New York State Comptroller effective upon mailing by OGS (see Appendix B, Clause 38). The parties may renew the contract, upon approval of the NYS Comptroller, upon expiration of the original term for an additional five (5) year term. Upon termination of the Contract, all rights and obligations set forth herein shall survive in accordance with their terms as to procurements made or individual licenses granted to Authorized Users prior to such termination.

This Contract is available for use by all Authorized Users (See Appendix B, *Definitions*, and *Participation in Centralized Contracts*) and may be extended with the joint approval of the Contractor and the Commissioner for joint purchasing by any department, agency or instrumentality of the United States government and/or any state including political subdivisions thereof (“other authorized entities”). In the event that this Contract is so extended, such other authorized entities shall be solely responsible for liability and performance under the Contract, and Contractor agrees to hold them solely responsible for such liability and performance.

### **2. MERGER OF APPENDICES/CONFLICT OF CLAUSES**

This Contract shall incorporate the following appendices as if set forth herein at length. Only documents expressly enumerated below shall be deemed a part of this Contract, and references contained in those documents to additional Contractor documents not enumerated below shall be of no force and effect. Conflicts between these documents shall be resolved in the following descending order of precedence, which supersedes the order of precedence stated in Appendix B:

Appendix A	<i>Standard Clauses for NYS Contracts</i>
Contract	(This Document)
Appendix B	OGS General Specifications
Appendix C	<u>Mandatory</u> : Contractor's Executive Law, Article 15-A (M/WBE) Requirements
Appendix D	Contract Update Form (For Product and Pricing Updates)
Appendix E	Required Contractor Submissions:
	# 1 Mandatory Contractor Questionnaire
	# 2 Contractor, Reseller & Distributor Information
	#2A Bidder Disclosure Form
	# 3 NYS Net Prices
	# 4 Consulting and Training (Description of Services & Course Offerings)

### **3. DEFINITIONS:**

The definitions in Appendix B shall apply to this contract and shall be supplemented by the following additional definitions:

**Archiving** shall mean the establishment of a preservation copy of the material for a given Product which is accessible on-line at a given point in time.

**Authentication** shall mean a network (whether a standalone network or a virtual network within the Internet) that is accessible only to End Users, either through IP addressing or through other means of user authentication.

**Concurrent Users** shall mean the number of end users that have access to a Database at a given point in time and can mean either of the following:

- **Concurrent Sessions Definition:** Under this definition, concurrent user is interpreted to include any user station device which, at the point in time of measurement, has established a logical session path to the Licensor's on-line service, enabling an immediate search request to be made directly to the Licensor's search software. This is the common meaning of such expressions as being "signed on" or "logged on" to the on-line service. Under this definition, any signed on terminal or user station device is counted as part of the concurrent use total, regardless of whether the user is at the user station; formulating a new search request; waiting for the Licensor's system to respond to a search request; or digesting the results of a previous request.
- **Active Request Definition:** Under this definition, only users who have submitted a search request transaction to the Licensor's on-line service and have not yet received a response from the Licensor's system are considered to be active users.

**Course Packs** - a collections of copyrighted materials (either electronic or printed) assembled by teachers to be used in conjunction with a course.

**Database** shall refer to the specific electronic information or advisory services maintained by a Licensor in various categories. For the purposes of this Contract, a Database shall include all forms of electronic information including but not limited to journals, newspapers in electronic form, books, titles, legal case studies, etc.

**End User** shall mean those persons who bear a valid End User identification card or equivalent (faculty or student ID, employer ID, borrower card, etc.). In addition, non-affiliated patrons of End User's library site(s) ("walk-ins") will be permitted reasonable access to the Licensed Materials.

**Fair Use** shall mean acceptable use under the Copyright Revision Act 1976 as amended subsequently provided that such rights are exercised in accordance with Section 108 of the Act and with the guidelines developed by the National Commission on New Technological Uses of Copyrighted Works (CONTU Guidelines) and published in U.S. Copyright Office Circular 21.

**Server** shall mean the computer system(s) on which the Products reside and through which Authorized Users gain access to the Products, whether the server is maintained by the Contractor or by a third party designated by the Contractor.

**User Station** shall mean a personal computer, non-intelligent terminal, or other similar device to gain access to the Databases.

#### **4. PRODUCT OFFERINGS**

Products available under this Contract are set forth in Appendix E (Submission #3, and 4). These offerings may be updated during the Contract term to incorporate new Product offerings, and price revisions and to delete items. Offering updates must be submitted under the Contract as soon as possible after they are announced by Contractor.

The Contractor shall provide specified Databases on a non-exclusive basis pursuant to this Contract. The Contractor shall provide on line access to the Databases for the OGS Contract Administrator free of charge. The Contractor shall maintain and provide a highly stable and usable Product and Web server capable of serving the Authorized User population. The Contractor shall abide by an agreed upon schedule of publication testing. To the greatest extent possible, the Contractor shall adhere to the International Coalition of Library Consortia (ICOLC) guidelines concerning statistics, technical issues and the purchase of electronic information resources.

**A. Contractor's Product Line:** Product(s) offered by Contractor either under Contractor's U.S. Commercial Price List or under a GSA Supply Schedule, may be included under this Contract.

**B. Third Party Products:** To the extent that the Contractor's U.S. Commercial Price List includes third party Products, which third party products overlap with offerings under other State Contracts, the State reserves the right, in its sole judgment, to exclude or delete overlapping items from this Contract, or to include such items under this Contract only if the Contractor offers it at or below the alternative Contract price. Only third party Products which are included in the Contractor's U.S. Commercial Price List may be sold under this Contract.

**C. Services:** Authorized Users may acquire services, including consulting and training, under this Contract. Consulting and training services as set forth in Appendix E (Submission #4) may be acquired from Contractor on a limited basis. Consulting and training services may not exceed twenty (20%) percent of the total order price for product. "Total order price" shall be defined as the aggregate purchase order amount for product placed by the Authorized User under this Contract in a twelve month period. Consulting and training which exceed twenty (20%) may be procured competitively using the OGS IT Services mini-bid process or another procurement process selected by the Authorized User. Note: Advisory services that are an integral part of the electronic on-line subscription service are not considered consulting services and are not limited by the "20% rule", however, any services not within the parameters of advisory services will be subject to the "20% rule". OGS reserves the sole right to determine what services fall within the parameters of advisory services.

## **5. CONTRACT ADMINISTRATION**

**A. Contract Administrator:** Contractor must provide a dedicated Contract administrator to support the updating and management of the Contract on a timely basis. Information regarding the administrator shall be set forth in Appendix E (Submission #2).

**B. "Toll Free" Number:** Contractor must provide a toll free telephone number for order tracking/delivery schedule information, Contract administration issues, as well as other questions by Authorized Users related to the day to day operation and use of the Contract other than Product support. The toll free number must be available Monday through Friday on State business days between the hours of 8 a.m. to 5 p.m., Eastern Time. The number shall be set forth in Appendix E (Submission #2).

Contractor may additionally offer an online e-mail or Internet site for order tracking/delivery schedule information for those customers who have electronic access.

**C. Procedures for Updating Contract Price & Product Listings** **NOTE: THE FOLLOWING PROCEDURES ARE NOT APPLICABLE TO CONTRACTOR PROPOSED CHANGES TO CONTRACT TERMS AND CONDITIONS.** *Any implied or express request for changes in or additions to existing Contract terms and conditions, including new terms and conditions associated with a specific Product line being added to the Contract for the first time, requires a formal Contract amendment and requires the approval of OGS, the NYS Attorney General and the NYS Comptroller. New or revised Contract terms and conditions are subject to the restrictions set forth in Appendix B, Section 40.*

The following guidelines and Appendix D, Contract Update Form attached to this Contract are subject to change at the discretion of OGS.

**(1) TYPES OF CONTRACT UPDATES:** In order to expedite processing of a change request, where proposed changes involve more than one category below, they should be submitted to OGS as totally separate requests.

**a) AUTO ADDS / DELETIONS** – "Auto Adds/Deletions" are Contract changes and updates made in accordance with the previously approved Contract pricing formula; e.g., a "discount from list" or pricing based on an approved GSA-based price Schedule. "Auto Adds" do not include any price increases. "Auto Adds/Deletions" include: i) adding new products within the established, previously approved pricing structure, ii) lowering pricing for Products previously incorporated under the Contract, and iii) deleting Products previously incorporated under the Contract. For categories (i) and (ii) Auto Adds: Contractor shall automatically update the Contract price list and may proceed with selling Products without

prior approval of either OGS or the Comptroller. Contractor should note, however, that all “Auto Adds” approved by OGS are subject to a post audit by the Office of the State Comptroller. For category (iii) Auto Deletions, at the end of and subject to the period specified in Appendix B, Clause 84 (“Changes in Product or Service Offerings”), Contractor may automatically update the Contract price list by deleting the Product(s), without prior approval of either OGS or the Comptroller.

All “auto adds” must be immediately posted electronically by the Contractor at the Contract web site.

b) **REGULAR ADD** - “Regular Adds” are requests for i) price increases for Products which are already incorporated under the Contract, and ii) addition of new products to the Contract which do not fall under the previously established price structure or discounts for Product types previously approved under the Contract. Regular Adds include rebundled Products or Services. Regular Adds must be submitted to OGS for prior approval, and must be accompanied by a justification of reasonableness of price. Regular Adds are subject to pre-audit by the Comptroller. If approved, OGS staff will notify Contractor in writing. Price increases or new product offerings may not be electronically posted by Contractor until after receipt of OGS approval of the “Regular Add”.

When the Contract pricing is based on GSA prices, the revised prices or prices of new Products must reflect current GSA prices adjusted as necessary for any additional discounts.

c) **SPECIAL ADD** – Contract changes and updates that do not fall within either of the above categories, will be processed as “Special Adds”. Special Adds are changes that are not specifically covered by the terms of the Contract but inclusion is found to be in the best interest of the State. Contractor must provide a justification of reasonableness of the prices offered and a statement explaining why it is in the best interest of the State to approve the new Products. Special Adds are subject to pre-audit by the Office of the State Comptroller. If approved, OGS staff will notify Contractor in writing. New offerings may not be electronically posted by Contractor until after receipt of OGS approval of the “Special Add”.

d) **CHANGES IN RESELLER LIST** - If the Contractor allows resellers to participate in the Contract in accordance with the Use of Resellers/Distributors clause of this Contract, requests to add or delete resellers or to modify reseller information must be submitted for prior approval of the State. Contractor may request changes to the designated Reseller List by submission of a completed, revised Appendix E, Submission # 2.

**(2) CONTRACTOR’S SUBMISSION OF CONTRACT UPDATES:** In connection with any Contract update, OGS reserves the right to:

- request additional information
- reject Contract updates
- remove Products from Contracts
- remove Products from Contract updates
- request additional discounts for new or existing Products

**(3) PRICE JUSTIFICATION – FORMAT:** Contractor is required to submit the Product and price information for the update in an Excel spreadsheet format in hard copy in triplicate and on a floppy disk or electronically via e-mail to the OGS Purchasing Officer. The list must be dated and the format should be consistent with the format of the price list(s) included in the NYS Net Price appendix of this Contract. The price list should separately include and identify (e.g., by use of separate worksheets or by using italics, bold and/or color fonts):

- Price increases
- Products being added

The State reserves the right to require a revised NYS Net Price List at any time during the Contract period, and it will be requested if there have been numerous updates since the last complete update. Each updated price list must include the date the price list was prepared.

**(4) SUPPORTING DOCUMENTATION:** Each update request must include the current U.S. commercial price list relevant to the Products included in the update. If the NYS Net Prices are based on a GSA Schedule, the current GSA Schedule must also be included with the update request. Requested price increases not based on an approved GSA schedule must also include a copy of the current National Consumer Price Index as described in the “Payments/Pricing” section of the Contract.

**(5) COVER LETTERS:** A Contract update must be accompanied by three (3) copies of the Contract Update Form set forth in Appendix D. Contractor should briefly describe the nature and purpose of the update (e.g., update requested in order to reflect a recently approved GSA schedule, to restructure the pricing to its Licensees generally, and/or for new Products or services which fall into a new group or category that did not exist at the time of approval of the Contract by the New York State Comptroller, etc.). Each of the three copies of the Contract Update Form must contain original signatures by an individual authorized to sign on behalf of Contractor, and an original corporate acknowledgment.

## **6. PAYMENTS/PRICING**

Prices shall be calculated and paid in accordance with this section and Appendix E (Submission # 3) in effect at the time of order placement. Pricing set forth in Appendix E (Submission # 3) includes all applicable documentation, media, shipping, delivery and handling charges. (Hereinafter “*NYS Net Price*”) Contractor may, however, upon mutual agreement of the Authorized User, negotiate more advantageous pricing for particular orders.

**A. Travel, Meals & Lodging** Unless expressly set forth to the contrary in Appendix E (Submission # 3), NYS net prices set forth in the Contract shall be deemed inclusive of travel, meals and lodging, wherever applicable. Where travel, meals and lodging are allowed over and above the NYS Net Prices, reimbursement to Contractor for such costs for employees who do not reside in the local commuting area for the work site, shall be made in accordance with the State’s Travel Reimbursement Manual published by the New York State Office of the State Comptroller. It will be the responsibility of the Authorized User to provide Contractor the most recently published reimbursement guidelines and rates.

**B. Subsequent Changes to Product Offerings** All changes must be in accordance with the procedures set forth below and require the advance approval of OGS.

**(1) Adding New Products:** Where future Products become commercially available during the Contract term and are offered to New York State, the Contract may be updated to include such offerings.

**(2) Deletion of Products:** OGS reserves the right to delete any Product from the Contract at its discretion at any time.

**(3) Price Decreases:** Shall be calculated in accordance with Appendix B, Clause 24.

**(4) Price Increases: (Pricing not Benchmarked to GSA Supply Schedule)** Additionally, where pricing submitted for Products or services is **not** benchmarked to an approved GSA Supply Schedule:

a) **First Twelve Months Fixed Pricing** offered shall be fixed for the first twelve (12) months of the Contract term from the date of Comptroller approval.

b) **Price Increase Requests** Contractor may thereafter request an increase in the pricing contained in Appendix E a maximum of once in any twelve month period provided that Contractor certifies in writing that the price change for Product applies to its U.S. Commercial Price List, and that Contractor documents the request to the satisfaction of the State.

c) **Escalation Cap** Contractor has the sole responsibility to submit to OGS a rate adjustment request which must include a copy of the index or other supporting documentation necessary to support the request. Such adjustment shall in no event exceed the lesser of five (5) percent or the percent increase in the latest copy of the “National Consumer Price Index for All Urban Consumers (CPI-U)”, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212. In no event can prices exceed the Contractor’s published U.S. Commercial List price.

d) **Effective Date of Increase** Price increases shall be effective upon final approval by the State, and may not be posted on the Internet prior to receipt of final approval.

**C. GSA Benchmarked Pricing** Additionally, where the NYS Net Price is based upon an approved GSA Supply Schedule:

**(1) Associated Discounts** The State is entitled to all associated discounts enumerated in the GSA Supply Schedule (including, but not limited to, discounts for additional sites and volume discounts), as well as any other

pricing or discount terms as are expressly enumerated in this NYS Contract or GSA schedule, when calculating the NYS Net Price; and

**(2) Industrial Funding Fee** GSA pricing incorporates a sum referred to as the "GSA Industrial Funding Fee". OGS reserves the right to require either that: the IFF is remitted directly to OGS, or the state contract prices be reduced, by an amount equivalent to the IFF. If the latter, the NYS Net Price shall be calculated by reducing the published GSA price, after the discounts, if any, set forth in paragraph (1), above, downward by the amount of the Industrial Funding Fee, currently set at .75%. Therefore, the "NYS Net Price" shall be calculated by multiplying 0.9925 times the GSA price, and

**(3) Pricing Increases** Price increases shall be effective upon final approval by the State, and may not be electronically posted by Contractor prior to receipt of final approval.

**D. Third Party Agreements** Contractor may change the rates to certain Databases, features and third party gateway charges in an amount equal to the increase from said third party, or make them excluded charges if Contractor is contractually bound or otherwise required to do so by a third party contributor of data to Contractor. Third party vendor contract price increases pursuant to this paragraph may be passed through to the Licensee provided that the charges have been documented by the Vendor. Such documentation shall be deemed shown upon OGS receipt of the following:

- a. Notice of said increase shall be furnished to the State at the address for the issuing officer at least thirty (30) days prior to such change going into effect; and
- b. Contractor shall furnish from said third party vendor a written statement of an independent auditor verifying: a) the date on which such price increase from third party shall be deemed effective as against Contractor; and b) the percentage increase in the charge which the third party vendor is charging to Contractor as a gateway for vendor's services.

## **7. DISTRIBUTION OF CONTRACTOR PRICE LIST AND CONTRACT APPENDICES**

Contractor shall bear the cost of and shall effect distribution of copies of the Contract, including price lists and appendices, upon request. Contractor shall not, however, distribute Contract information unless OGS has approved it in advance. Contractor shall also be required to furnish OGS with additional copies of the approved price lists (paper copy or diskette, at the State's discretion) upon request as may be necessary in the normal course of business.

## **8. CURRENT AGREEMENTS BETWEEN CONTRACTOR AND ELIGIBLE AUTHORIZED USERS**

Eligible Authorized Users, including educational institutions of the State of New York, with independent contracts for Contractor products and services may, at any time, convert any existing contract(s) with Contractor to participate under this Contract and upon doing so shall have all rights of an "Authorized User", provided that notice of such migration shall be forwarded to the Contractor.

Contractor has an affirmative responsibility to inform eligible Authorized Users, via e-mail or other formal communications, of the terms, conditions and pricing of this Contract at the earliest opportunity after approval of this Contract by all parties.

## **9. ACCESS TO PRODUCTS; ARCHIVING; AUTHORIZED USERS:**

- A. **Access:** Access to the Products, such as the Databases, by Authorized Users shall be either via electronic media or the World Wide Web from the Contractor's server(s). The Contractor shall insure that the Products are highly stable and usable (including average response time of less than 5 seconds, and uptime, except for scheduled maintenance, of 96.9%), and shall insure that the Web server(s) is (are) fully capable of serving Authorized Users. The Contractor will provide sufficient additional bandwidth and servers to ensure no degradation of services if necessary. Access shall be controlled by IP addresses, passwords or other appropriate authentication technology.
- B. **Archiving:** If at any time during the term of this Agreement, the Contractor should cease its on-line delivery of the Products, the Contractor shall provide to The State of New York a preservation copy of the material accessible online if offered by either Contractor or Publisher to any other commercial customers.

The Contractor may charge a non-exorbitant fee for the archival copy(ies). Such fee(s) to be included in Appendix E.

C. Authorized Users will prepare and submit to the Contractor a list of End Users that shall include name, address, and contact information.

D. License Scope:

(1) **Database Access Systems:** The Contractor and the State agree that the hardware and software portions of the Product and Documentation provided to the Authorized Users that allows or permits access to the Database(s) shall be governed by Appendix B, paragraph 78, Software License Grant

(2) **Database License:** The Contractor and the State agree that the license for the Databases portion of the Product shall be governed as set forth below:

a) Authorized User is granted a non-exclusive, transferable, term license to access and use the Databases in accordance with this Contract. The license term for the Database license shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the License Term shall be extended by the time period for testing, acceptance or trial

b) Contractor warrants and represents (i) full ownership, clear title free of all liens, or (ii) the right to grant a non-exclusive term license to access and use any Database(s), provided to Authorized User under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor fully indemnifies the Authorized User for any loss, damages or actions arising from a breach of said warranty without limitation.

c) Though Contractor uses extensive procedures to keep its Databases current and promote data accuracy, Authorized User acknowledges that the Databases may contain a degree of error. ALL DATABASES ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS. OTHER THAN AS EXPLICITLY STATED IN THIS AGREEMENT, CONTRACTOR DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR THE DATABASE(S).

d) Permitted License Transfers: As Licensee's business operations may be altered, expanded or diminished, Databases licenses may be transferred or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and must certify in writing that the Database is not in use at the prior site. There shall be no additional license or other transfer fees due Contractor.

E. Concurrent Use License: Where licensing of Products is based upon "Concurrent Users", Contractor hereby grants license rights to the specified number of concurrent users actually executing the licensed programs, without reference to location or named users (hereinafter "Concurrent Users"). Upon written notice to Contractor, Licensee reserves the right, without penalty or termination of the existing license, to increase or diminish the number of Concurrent User licenses.

F. Notwithstanding the term of the Agreement, an individual Authorized User may subscribe annually within the term of the Agreement, renewable by the Authorized User annually. By mutual agreement, the annual subscription period may be for a stated annual term for all Authorized Users, provided however; that additional End Users may be added any time during the Contract period on a prorated basis.

## **10. CONTRACTOR'S PERFORMANCE OBLIGATIONS:**

- A. The Contractor will provide and maintain help files and other appropriate user documentation for the Products to be accessible to all Authorized Users free of charge.
- B. The Contractor will offer reasonable levels of continuing support to assist Authorized Users and their End Users in their use of the Products. Contractor will make its personnel available by email, phone or fax during regular business hours, Monday through Friday for feedback, problem solving, or general questions free of charge.
- C. The Contractor shall use reasonable efforts to ensure that the Contractor's server or servers have sufficient capacity and rate of connectivity to provide all Authorized Users and their End Users with a quality of service comparable to current standards in the on-line information provision industry in the Authorized User's locale. The Contractor shall use reasonable efforts to restore access to the Products as soon as possible in the event of an interruption or suspension of service. In the event that access to the Products is not restored in a reasonable time, the Contractor will provide appropriate reimbursement to the Authorized User in an amount proportional to the total fee for the Products had they been available to the Authorized User.
- D. Authorized User understands that from time to time the Products may be added to, modified, or deleted by the Contractor and/or that portions of the Products may migrate to other formats. The Contractor shall give prompt notice of any such changes to Authorized User. Failure by the Contractor to provide such reasonable notice shall be grounds for immediate termination of the Agreement by Authorized User.
- E. The Contractor will ensure regular system and project updates to Authorized Users as they become available. The Contractor will provide additional training to Authorized User staff made necessary by any updates or modifications to the Products or any of the Contractor software.
- F. The Contractor will offer free on-line help to the End User. Prompts will be available for the End User to guide the End User through the steps in acquiring information. Training materials must also be available in print and/or electronic form.

#### **11. AUTHORIZED USER PERFORMANCE OBLIGATIONS:**

- A. Authorized Users acknowledge that the copyright and title to the information content and organization of the Products are and remain with the Contractor. Authorized User shall use reasonable efforts to inform its End Users and walk-in patrons of any restrictions on the use of the Products. Authorized User shall use reasonable efforts to protect the Products from any use that is not permitted under this Agreement, and shall notify the Contractor of any such use of which it learns or is notified. In the event of any unauthorized use of the Products, (a) the Contractor may terminate the access of the Internet Protocol ("IP") address (es) from which such unauthorized use occurred, and/or (b) the Contractor may request that Authorized User terminate access of the persons making such unauthorized use to the Products. The Contractor shall take none of the steps described in this paragraph without first providing reasonable notice to Authorized User and working with the Authorized User to avoid recurrence of any unauthorized use.
- B. **Authorized Uses.** End Users may make all use of the Products, including Databases, as is consistent with the Fair Use Provisions of United States and international copyright laws and with any copyright-related restrictions specified in the copyright statement accompanying the content to be used. The Authorized User and Contractor agree that the phrase "copyright-related restrictions" refers to the exclusive rights in copyrighted works conferred under 17 USC §106. Subject to any restrictions specified in the copyright statement accompanying the content to be used, the products may be used as follows:
  - (1) End Users may display, download, copy and/or print portions of the Products for use in research, education, or other non-commercial purposes.
  - (2) End Users may use a reasonable portion of the Products in the preparation of educational materials (excluding Course Packs).

- (3) End User may fulfill occasional requests from other institutions, a practice commonly called Interlibrary Loan. End User agrees to maintain records respecting End User's use of Materials in such Interlibrary Loan and to provide such records to the Contractor upon request.

## **12. SPECIFIC RESTRICTIONS ON USE OF PRODUCTS:**

- A. Authorized User shall not knowingly permit anyone other than End Users to use the Products.
- B. Authorized User may not utilize the Products for commercial purposes, including but not limited to the sale of the Products, fee-for-service use of the Products, or bulk reproduction or distribution of the Products in any form; nor may Authorized User impose special charges on End Users for use of the Products beyond reasonable printing or administrative costs.
- C. End Users may not disseminate or redistribute the Products via electronic bulletin boards, e-mail, intranets, the Internet or similar medium or service.
- D. Course Packs are not allowed under fair use in copyright law. For course pack usage direct publisher permission is required.

## **13. REPORTING/MONITORING CONTRACT PERFORMANCE**

Contractor shall electronically provide the State with verified semi-annual reports in the format required by the State showing the dollar volume of any and all sales under this Contract for the prior six-month period. Said report shall include a break out of participation by individual Authorized Users, including State and non-State governmental entities and others authorized by law. The Industrial Funding Fee payable to the New York State Office of General Services Finance Office will also be due on the same schedule. Reports and Industrial Funding Fee payments shall be delivered within thirty (30) days of the close of the semi-annual period. Semi-annual periods will end on December 31<sup>st</sup> and June 30<sup>th</sup>. If the contract period begins or ends in a fractional portion of a reporting period only the actual contract sales for this fractional period should be reported in that semi-annual report. Similarly the Industrial Funding Fee payable to the New York State Office of General Services Finance Office will only be due for the actual contract sales reported in that reporting period. The amount of the Industrial Funding Fee Payment shall match the contract sales contained in the semi-annual report based on the percentage established by the GSA. This percentage is currently set at .75%. In the event that a Contractor utilizes resellers, it is the responsibility of Contractor to include all Contract revenues from these participants in the semi-annual report. Where third party Product is offered and delivered under this Contract, Contractor shall be required to separately report such sales volume on a semi-annual basis to the State.

The State shall have the right to verify said report and Industrial Funding Fee payments and to take any action(s) necessary to enforce its rights under this paragraph, including but not limited to the right to stop payments until such reports or Industrial Funding Fee payments are received, audit Contractor's applicable Contract books, to substitute, in its sole judgment, a good faith estimate of Contract usage upon failure of Contractor to deliver said report as required where pricing is based upon aggregate volume, or to terminate the Contract for cause or seek other judicial relief. In the event the contractor fails to submit reports the Industrial Funding Fee will become due based on the state's good faith estimate of sales.

## **14. TRAINING AND IMPLEMENTATION**

Contractor is required at no extra charge to assist the Office of General Services and Authorized Users with training and implementation in use of the Contract. Training shall be limited to that information necessary for Authorized Users to properly understand contract terms and conditions, and pricing of products, etc. Any informational materials developed will be subject to approval by OGS. Contractor and OGS will jointly implement use of materials.

## **15. ENTIRE AGREEMENT**

This Contract and the referenced appendices constitute the entire agreement between the parties thereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and the Contract shall not be changed, modified or altered in any manner except by an instrument in writing executed by both parties hereto, with the approval of the Attorney

General and the Comptroller for the State of New York. Licensees shall not have the authority to modify the terms of the Contract, except as to better terms and pricing for a particular procurement than those set forth herein.

**16. NOTICES**

All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to this Contract shall be in writing and shall be validly given when mailed by registered or certified mail, or hand delivered, (i) if to the State, addressed to the State at its address set forth below, and (ii) if to Contractor, addressed to Contract Administrator at the address set forth in Appendix E. The parties may from time to time, specify any address in the United States as its address for purpose of notices under this Contract by giving fifteen (15) days written notice to the other party. The parties agree to mutually designate individuals as their respective representatives for purposes of this Contract. The New York State Contract Administrator for this Contract is:

Cheri McCullough  
New York State Procurement  
38<sup>th</sup> Floor, Corning Tower  
Empire State Plaza  
Albany, New York 12242  
Phone: (518) 474-0212  
Fax: (518) 486-6867  
Email: cheri.mccullough@ogs.ny.gov

**17. CAPTIONS**

The captions contained in this Contract are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

**18. SEVERABILITY**

If any provision of this Contract is deemed invalid or unenforceable, such determination shall have no effect on the balance of the Contract, which shall be enforced and interpreted as if such provision was never included in the Contract.

**19. DISPUTE RESOLUTION POLICY**

It is the policy of the Office of General Services New York State Procurement (NYSPRO) to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to NYSPRO bid solicitations or contract awards. NYSPRO encourages vendors to seek resolution of disputes through consultation with NYSPRO staff. All such matters will be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of NYSPRO's Dispute Resolution Procedures for Vendors may be obtained by contacting the person shown above under "Notices" or through the OGS website ([www.ogs.ny.gov](http://www.ogs.ny.gov)).



# Appendix 1

{Revised: June 2005}

## New York State

### Standard Vendor Responsibility Questionnaire

(Use the Uniform Contracting Questionnaire CCA-1, for all construction contracts)

Each Contracting Agency conducts a review of prospective contractors (“vendors”) to provide reasonable assurances that the vendor is responsible. This questionnaire is used for all non-construction contracts with a contract value of \$100,000.00 or more and is designed to provide information to assess a vendor’s authorization to do business in New York State, as well as your business integrity, financial and organizational capacity, and performance history. (Review of construction contractors will be based upon the Uniform Contracting Questionnaire developed by the Council of Contracting Agencies.)

Each vendor must answer every question contained in this questionnaire. Where a response requires additional information, the vendor must attach a written response that adequately details the requested information. Please number each response to match the question number. The completed questionnaire and attached responses will become part of the procurement record.

In order to expedite the required review, when providing additional information for a “YES” answer to Questions 14 a-s, or any other response which requires additional explanation, your information and responses should address the relationship of the issue to the proposed contract. Be brief, concise and to the point. Discuss as appropriate the following:

- Provide a description of the issue and identify the actions taken or currently being implemented to ensure that the issue will not occur again.
- State whether the staff and/or organizational component involved in the identified issue(s) will work on the proposed contract. If so, provide information to assure the agency that the issue will not be repeated.
- Identify the relationship (or lack thereof) between the product/services involved in the issue and the type of product/services proposed for this contract.
- State whether the issue will affect your financial or organizational ability to perform under the proposed contract.
- Provide copies of relevant documents or any other information that would assist the agency in its vendor responsibility evaluation.

It is imperative that the person completing the vendor responsibility questionnaire be knowledgeable about the proposing vendor’s business and operations, as an owner or officer of the vendor must attest to the questionnaire information. Please be advised that at the end of this questionnaire, you must certify, under oath, all responses given.

**New York State**  
**Standard Vendor Responsibility Questionnaire**

1. LEGAL BUSINESS NAME: EBSCO Industries, Inc.
2. FEDERAL EMPLOYER ID NO. (FEIN): 63-6014186
3. D/B/A — Doing Business As (if applicable): \_\_\_\_\_  
COUNTY FILED: \_\_\_\_\_
4. WEBSITE ADDRESS (if applicable): www.ebscohost.com
5. PRINCIPAL PLACE OF BUSINESS ADDRESS: 10 Estes St., Ipswich, MA 01938
6. TELEPHONE NUMBER: 800-653-2726 7. FAX NUMBER: 978-356-6565
8. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE:  
Name: Diane Lima  
Title: Senior Marketing Coordinator  
Telephone Number: 800-653-2726 Ext. 2573 Fax Number: 978-356-6565  
E-mail: dlima@ebscohost.com
9. TYPE OF BUSINESS: (please check appropriate box and provide additional information)
  - a)  Corporation State of Incorporation: Delaware
  - b)  Sole Proprietor State/County filed in: \_\_\_\_\_
  - c)  General Partnership State/County filed in: \_\_\_\_\_
  - d)  Not-for-Profit Corporation Charities Registration Number: \_\_\_\_\_
  - e)  Limited Liability Company (LLC) Jurisdiction filed: \_\_\_\_\_
  - f)  Limited Partnership State/County filed in: \_\_\_\_\_
  - g)  Other — Specify: \_\_\_\_\_ Jurisdiction Filed (if applicable) \_\_\_\_\_
10. IF NOT INCORPORATED OR FORMED IN NEW YORK STATE, PLEASE PROVIDE A CURRENT CERTIFICATE OF GOOD STANDING FROM YOUR STATE OR APPLICABLE LOCAL JURISDICTION.
11. LIST NAME AND TITLE OF EACH PRINCIPAL, OWNER, OFFICER, MAJOR STOCKHOLDER (10% OR MORE OF THE VOTING SHARES FOR PUBLICLY TRADED COMPANIES, 25% OR MORE OF THE SHARES FOR ALL OTHER COMPANIES), DIRECTOR AND MEMBER, as applicable:  

EBSCO Industries, Inc. is a privately-owned company. The overall beneficial ownership of EBSCO Industries, Inc. and its subsidiaries is with the Stephens family from Birmingham, Alabama, under the rules of attribution, owns more than 90% of the company. Board of Directors: J.T. Stephens, Chairman; F. Dixon Brooke, Jr., President; Dell S. Brooke, Secretary; and Richard L. Bozzelli, Treasurer, Vice President & Chief Financial Officer.
12. AUTHORIZED CONTACT FOR THE PROPOSED CONTRACT:  
Name: Ed Roche  
Title: Senior Director of Sales  
Telephone Number: 800-653-2726 Ext. 2569 Fax Number: 978-356-6565  
E-mail: eroche@ebscohost.com

## New York State Standard Vendor Responsibility Questionnaire

VENDOR FEIN: 63-6014186

13. DOES THE VENDOR USE, OR HAS IT USED IN THE PAST FIVE (5) YEARS, ANY OTHER BUSINESS NAME, FEIN, OR D/B/A OTHER THAN WHAT IS LISTED IN QUESTIONS 1-3 ABOVE?  Yes  No

**If yes**, provide the name(s), FEIN(s) and d/b/a(s) and the address for each such company and d/b/a on a separate piece of paper and attach to this response.

14. WITHIN THE PAST FIVE (5) YEARS, HAS THE VENDOR, ANY PRINCIPAL, OWNER, OFFICER, MAJOR STOCKHOLDER (10% OR MORE OF THE VOTING SHARES FOR PUBLICLY TRADED COMPANIES, 25% OR MORE OF THE SHARES FOR ALL OTHER COMPANIES), AFFILIATE<sup>1</sup> OR ANY PERSON INVOLVED IN THE BIDDING, CONTRACTING OR LEASING PROCESS BEEN THE SUBJECT OF ANY OF THE FOLLOWING:

- (a) a judgment or conviction for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct?  Yes  No
- (b) a criminal investigation or indictment for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct?  Yes  No
- (c) an unsatisfied judgment, injunction or lien for any business related conduct obtained by any federal, state or local government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any federal, state or local government agency?  Yes  No
- (d) an investigation for a civil or criminal violation for any business related conduct by any federal, state or local agency?  Yes  No
- (e) a grant of immunity for any business-related conduct constituting a crime under federal, state or local governmental law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct?  Yes  No
- (f) a federal, state or local government suspension or debarment from the contracting process?  Yes  No
- (g) a federal, state or local government contract suspension or termination for cause prior to the completion of the term of a contract?  Yes  No
- (h) a federal, state or local government denial of a lease or contract award for non-responsibility?  Yes  No
- (i) an administrative proceeding or civil action seeking specific performance or restitution in connection with any federal, state or local contract or lease?  Yes  No

<sup>1</sup>"Affiliate" meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purposes of this questionnaire.

## New York State Standard Vendor Responsibility Questionnaire

**VENDOR FEIN:** 63-6014186

- |  |   |
|--|---|
| (j) a federal, state or local determination of a willful violation of any public works or labor law or regulation?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (k) a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (l) a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local laws?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (m) an Occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (n) a rejection of a bid on a New York State contract or a lease with the State for failure to comply with the MacBride Fair Employment Principles?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (o) a citation, violation order, pending administrative hearing or proceeding or determination issued by a federal, state or local government for violations of:   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| - health laws, rules or regulations  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| - unemployment insurance or workers' compensation coverage or claim requirements   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| - ERISA (Employee Retirement Income Security Act)  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| - human rights laws  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| - federal U.S. Citizenship and Immigration Services laws   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| - Sherman Act or other federal anti-trust laws   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (p) entered into an agreement to a voluntary exclusion from contracting with a federal, state or local governmental entity?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (q) a denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (r) a rejection of a low bid on a federal, state or local contract for failure to meet statutory affirmative action or Minority or Women's Business Enterprise or Disadvantaged Business Enterprise status requirements on a previously held contract? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (s) a finding of non-responsibility by an agency or authority due to the intentional provision of false or incomplete information as required by Executive Order 127?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

**FOR EACH YES ANSWER TO QUESTIONS 14 a-s, PROVIDE DETAILS ON ADDITIONAL SHEETS REGARDING THE FINDING, INCLUDING BUT NOT LIMITED TO CAUSE, CURRENT STATUS, RESOLUTION, ETC.**

15. DURING THE PAST THREE YEARS, HAS THE VENDOR FAILED TO:

- (a) FILE RETURNS OR PAY ANY APPLICABLE FEDERAL, STATE OR LOCAL GOVERNMENT TAXES?  Yes  No

**If yes,** identify the taxing jurisdiction, type of tax, liability year(s) and tax liability amount the company failed to file/pay and the current status of the liability:

- 
- (b) FILE RETURNS OR PAY NEW YORK STATE UNEMPLOYMENT INSURANCE?  Yes  No

**If yes,** indicate the years the company failed to file/pay the insurance and the current status of the liability:

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**New York State**  
**Standard Vendor Responsibility Questionnaire**

**VENDOR FEIN:** 63-6014186

16. HAVE ANY BANKRUPTCY PROCEEDINGS BEEN INITIATED BY OR AGAINST THE VENDOR OR ITS AFFILIATES WITHIN THE PAST SEVEN YEARS (WHETHER OR NOT CLOSED) OR IS ANY BANKRUPTCY PROCEEDING PENDING BY OR AGAINST THE VENDOR OR ITS AFFILIATES, REGARDLESS OF THE DATE OF FILING?

Yes  No

**If yes**, indicate if this is applicable to the submitting vendor or one of its affiliates: \_\_\_\_\_

If it is an affiliate, include the affiliate's name and FEIN: \_\_\_\_\_

Provide the court name, address and docket number: \_\_\_\_\_

Indicate if the proceedings have been initiated, remain pending or have been closed: \_\_\_\_\_

If closed, provide the date closed: \_\_\_\_\_

17. DOES VENDOR HAVE THE FINANCIAL RESOURCES NECESSARY TO FULFILL THE REQUIREMENTS OF THE PROPOSED CONTRACT?

Yes  No



# Appendix 2

New York State Department of Taxation and Finance

**Contractor Certification (ST-220-TD)**  
**Contractor Certification to Covered Agency (ST-220-CA)**



New York State Department of Taxation and Finance

# Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

For information, consult Publication 223, *Question and Answers Concerning Tax Law Section 5-a* (see *Need help?* below).

Contractor name			
EBSCO Industries, Inc.			
Contractor's principal place of business	City	State	ZIP code
10 Estes Street	Ipswich	MA	01938
Contractor's mailing address (if different than above)			
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)	Contractor's telephone number
63-6014186			( 800 ) 653-2726
Covered agency name	Contract number or description		Estimated contract value over the full term of the contract (but not including renewals) \$
NYS OGS	PS54984		1,000,000
Covered agency address			Covered agency telephone number
38 <sup>th</sup> Floor, Corning Tower Empire State Plaza Albany, NY 12242			518-486-6812

### General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a*, (as amended, effective April 26, 2006), available at [www.nystax.gov](http://www.nystax.gov). Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

**Note:** Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT  
DATA ENTRY SECTION  
W A HARRIMAN CAMPUS  
ALBANY NY 12227**

### Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

### Need Help?



**Internet access:** [www.nystax.gov](http://www.nystax.gov)  
(for information, forms, and publications)



**Fax-on-demand forms:** 1 800 748-3676



**Telephone assistance** is available from  
8:00 A.M. to 5:00 P.M. (eastern time),  
Monday through Friday.

To order forms and publications: 1 800 698-2931  
1 800 462-8100

**Sales Tax** Information Center: 1 800 462-8100

From areas outside the U.S. and outside Canada: (518) 485-6800

**Hearing and speech impaired** (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, Gary Balentine, hereby affirm, under penalty of perjury, that I am Vice President of Inside Sales  
(name) (title)  
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Make only one entry in each section below.

**Section 1 - Contractor registration status**

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

**Section 2 - Affiliate registration status**

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

**Section 3 - Subcontractor registration status**

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this 18<sup>th</sup> day of September, 2007

\_\_\_\_\_  
(sign before a notary public)

Vice President of Inside Sales  
(title)



**Individual, Corporation, Partnership, or LLC Acknowledgment**

STATE OF Massachusetts }  
: SS.:  
COUNTY OF Essex }

On the 18<sup>th</sup> day of September in the year 2007, before me personally appeared Gary Balentine known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

he works at EBSCO Industries, Inc. ,  
Town of Ipswich ,  
County of Essex ,  
State of Massachusetts \_\_\_\_\_ ; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): he executed the foregoing instrument in his/her name and on his/her own behalf.
- (If a corporation): X he is the Vice President of Inside Sales of EBSCO Industries, Inc. , the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, X he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- (If a partnership): he is a \_\_\_\_\_ of \_\_\_\_\_ , the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- (If a limited liability company): he is a duly authorized member of \_\_\_\_\_ LLC, the limited liability company described in said instrument; that he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

\_\_\_\_\_  
Notary Public

Registration No. \_\_\_\_\_



New York State Department of Taxation and Finance

**Contractor Certification to Covered Agency**

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

For information, consult Publication 223, *Question and Answers Concerning Tax Law Section 5-a (see Need Help? on back)*.

Contractor name EBSCO Industries, Inc.				For covered agency use only Contract number or description
Contractor's principal place of business 10 Estes Street		City Ipswich	State MA	
Contractor's mailing address (if different than above)				Estimated contract value over the full term of contract (but not including renewals) \$
Contractor's federal employer identification number (EIN) 63-6014186		Contractor's sales tax ID number (if different from contractor's EIN)		
Contractor's telephone number ( 800 ) 653-2726		Covered agency name		
Covered agency address				Covered agency telephone number

I, Gary Balentine, hereby affirm, under penalty of perjury, that I am Vice President of Inside Sales  
 (name) (title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:  
 (Mark an X in only one box)

- The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.
- The contractor has previously filed Form ST-220-TD with the Tax Department in connection with \_\_\_\_\_  
 (insert contract number or description)  
 and, to the best of the contractor's knowledge, the information provided on that previously filed Form T-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this 18<sup>th</sup> day of September, 2007

\_\_\_\_\_  
 (sign before a notary public)

Vice President of Inside Sales  
 (title)

**Instructions****General Information**

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

**Note:** Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

**When to complete this form**

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned on or after April 26, 2006 (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF Massachusetts }
: SS.:
COUNTY OF Essex }

On the 18th day of September in the year 2007, before me personally appeared Gary Balentine known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

he works at EBSCO Industries, Inc.,

Town of Ipswich,

County of Essex,

State of Massachusetts; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): he executed the foregoing instrument in his/her name and on his/her own behalf.
(X) (If a corporation): he is the Vice President of Inside Sales of EBSCO Industries, Inc., the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, X he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): he is the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): he is a duly authorized member of LLC, the limited liability company described in said instrument; that he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need Help?
Internet access: www.nystax.gov (for information, forms, and publications)
Fax-on-demand forms: 1 800 748-3676
Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100
From areas outside the U.S. and outside Canada: (518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.

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## STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the

performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor

within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

(a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment,

employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St -- 7<sup>th</sup> Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
30 South Pearl St -- 2nd Floor  
Albany, New York 12245  
Telephone: 518-292-5250  
Fax: 518-292-5803  
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. PURCHASES OF APPAREL.** In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

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**APPENDIX B**  
**GENERAL SPECIFICATIONS**

**PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE**

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**GENERAL**

1. **APPLICABILITY** The terms and conditions set forth in this Appendix B are expressly incorporated in and applicable to the resulting procurement contracts let by the Office of General Services New York State Procurement, or let by any other Authorized User where incorporated by reference in its Bid Documents. Captions are intended as descriptive and are not intended to limit or otherwise restrict the terms and conditions set forth herein.

2. **GOVERNING LAW** This procurement, the resulting contract and any purchase orders issued hereunder shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise, and actions or proceedings arising from the contract shall be heard in a court of competent jurisdiction in the State of New York.

3. **ETHICS COMPLIANCE** All Bidders/Contractors and their employees must comply with the requirements of Sections 73 and 74 of the Public Officers Law, other State codes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the Bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

4. **CONFLICT OF TERMS** Unless otherwise set forth in the procurement or contract documents, conflicts among documents shall be resolved in the following order of precedence:

- a. **Appendix A** (Standard Clauses for NYS Contracts)
- b. **Mini-Bid Project Definition** if applicable and in accordance with the terms and conditions of the Back-Drop Contract.
- c. **Contract and other writing(s)** setting forth the final agreements, clarifications and terms between the Bid Documents and Contractor's Bid. In the latter circumstance, clarifications must specifically note in writing what was offered by the Contractor and what was accepted by the State. If not, such clarifications shall be considered last in the order of precedence under this paragraph.
- d. **Bid Documents** (Other than Appendix A).
  - i. Bid Specifications prepared by the Authorized User.
  - ii. Appendix B (General Specifications).
  - iii. Incorporated Contract Appendices, if any, following the order of precedence as stated for Contract above.
- e. **Contractor's Bid or Mini-Bid Proposal.**
- f. **Unincorporated Appendices** (if any).

5. **DEFINITIONS** Terms used in this Appendix B shall have the following meanings:

**AFFILIATE** Any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) that effectively controls another company in which (a) the Bidder owns more than 50% of the ownership; or (b) any individual or other legal entity which owns more than 50% of the ownership of the Bidder. In addition, if a Bidder owns less than 50% of the ownership of another legal entity, but directs or has the right to direct such entity's daily operations, that entity will be an Affiliate.

**AGENCY OR AGENCIES** The State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.

**ATTORNEY GENERAL** Attorney General of the State of New York.

**AUTHORIZED USER(S)** Agencies, or any other entity authorized by the laws of the State of New York to participate in NYS centralized contracts (including but not limited to political subdivisions, public authorities, public benefit corporations and certain other entities set forth in law), or the State of New York acting on behalf of one or more such Agencies or other entities, provided that each such Agency or other entity shall be held solely responsible for liabilities or payments due as a result of its participation.

**BID OR BID PROPOSAL** An offer or proposal submitted by a Bidder to furnish a described product or a solution, perform services or means of achieving a practical end, at a stated price for the stated Contract term. As required by the Bid Documents, the Bid or proposal may be subject to modification through the solicitation by the Agency of best and final offers during the evaluation process prior to recommendation for award of the Contract.

**BIDDER/OFFERER** Any individual or other legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) which submits a Bid in response to a Bid Solicitation. The term Bidder shall also include the term "offeror." In the case of negotiated Contracts, "Bidder" shall refer to the "Contractor."

**BID DOCUMENTS** Writings by the State setting forth the scope, terms, conditions and technical specifications for a procurement of Product. Such writings typically include, but are not limited to: Invitation for Bids (IFB), Request for Quotation (RFQ), Request for Proposals (RFP), addenda or amendments thereto, and terms and conditions which are incorporated by reference, including but not limited to, Appendix A (Standard Clauses for NYS Contracts), Appendix B, (General Specifications). Where these General Specifications are incorporated in negotiated Contracts that have not been competitively Bid, the term "Bid Documents" shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

**BID SPECIFICATION** A written description drafted by the Authorized User setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a commodity or construction item, any description of the work to be performed, Products to be provided, the necessary qualifications of the Bidder, the capacity and capability of the Bidder to successfully carry out the proposed Contract, or the process for achieving specific results and/or anticipated outcomes or any other requirement necessary to perform work. Where these General Specifications are incorporated in negotiated Contracts that have not been competitively Bid, the term "Bid Specifications" shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

**COMMISSIONER** Commissioner of OGS, or in the case of Bid Specifications issued by an Authorized User, the head of such Authorized User or their authorized representative.

**COMPTROLLER** Comptroller of the State of New York.

**CONTRACT** The writing(s) which contain the agreement of the Commissioner and the Bidder/Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law, and which most typically include the following classifications of public procurements:

**a. Agency Specific Contracts** Contracts where the specifications for a Product or a particular scope of work are described and defined to meet the needs of one or more Authorized User(s).

**b. Centralized Contracts** Single or multiple award Contracts where the specifications for a Product or general scope of work are described and defined by the Office of General Services to meet the needs of Authorized Users. Centralized Contracts may be awarded through multiple awards or through adoption of another jurisdiction's contract or on a sole source, single source, emergency or competitive basis. Once established, procurements may be made from the selected Contractor(s) without further competition or Mini-Bid unless otherwise required by the Bid Specifications or Contract Award Notification.

**c. Back-Drop Contracts** Multiple award Centralized Contracts where the Office of General Services defines the specifications for a Product or general scope of work to meet the needs of Authorized Users. Bids may be submitted either at a date and time certain or may be accepted on a continuous or periodic recruitment basis, as set forth in the Bid Specifications. Selection of a Contractor(s) from among Back-Drop contract holders for an actual Product, project or particular scope of work may subsequently be made on a single or sole source basis, or on the basis of a Mini-Bid among qualified Back-Drop contract holders, or such other method as set forth in the Bid Document.

**d. Piggyback Contract** A Contract let by any department, agency or instrumentality of the United States government, or any department, agency, office, political subdivision or instrumentality of any state or state(s) which is adopted and extended for use by the OGS Commissioner in accordance with the requirements of the State Finance Law.

**e. Contract Letter** A letter to the successful Bidder(s) indicating acceptance of its Bid in response to a solicitation. Unless otherwise specified, the issuance of a Letter of Acceptance forms a Contract but is not an order for Product, and Contractor should not take any action with respect to actual Contract deliveries except on the basis of Purchase Orders sent from Authorized User(s).

**CONTRACT AWARD NOTIFICATION** An announcement to Authorized Users that a Contract has been established.

**CONTRACTOR** Any successful Bidder(s) to whom a Contract has been awarded by the Commissioner.

**DOCUMENTATION** The complete set of manuals (e.g., user, installation, instruction or diagnostic manuals) in either hard or electronic copy, which are necessary to enable an Authorized User to properly test, install, operate and enjoy full use of the Product.

**EMERGENCY** An urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

**ENTERPRISE** The total business operations in the United States of Authorized User (s) without regard to geographic location where such operations are performed or the entity actually performing such operations on behalf of Authorized User.

**ENTERPRISE LICENSE** A license grant of unlimited rights to deploy, access, use and execute Product anywhere within the Enterprise up to the maximum capacity stated on the Purchase Order or in the Contract.

**ERROR CORRECTIONS** Machine executable software code furnished by Contractor which corrects the Product so as to conform to the applicable warranties, performance standards and/or obligations of the Contractor.

**GROUP** A classification of Product, services or technology which is designated by OGS.

**INVITATION FOR BIDS (IFB)** A type of Bid Document which is most typically used where requirements can be stated and award will be made based on lowest price to the responsive and responsible Bidder(s).

**LICENSED SOFTWARE** Software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes error corrections, upgrades, enhancements or new releases, and any deliverables due under a maintenance or service contract (e.g., patches, fixes, PTFs, programs, code or data conversion, or custom programming).

**LICENSEE** One or more Authorized Users who acquire Product from Contractor by issuing a Purchase Order in accordance with the terms and conditions of the Contract; provided that, for purposes of compliance with an individual license, the term "Licensee" shall be deemed to refer separately to the individual Authorized User(s) who took receipt of and who is executing the Product, and who shall be solely responsible for performance and liabilities incurred. In the case of acquisitions by State Agencies, the Licensee shall be the State of New York.

**LICENSE EFFECTIVE DATE** The date Product is delivered to an Authorized User. Where a License involves Licensee's right to copy a previously licensed and delivered Master Copy of a Program, the license effective date for additional copies shall be deemed to be the date on which the Purchase Order is executed.

**LICENSOR** A Contractor who transfers rights in proprietary Product to Authorized Users in accordance with the rights and obligations specified in the Contract.

**MINI-BID PROJECT DEFINITION** A Bid Document containing project specific Bid Specifications developed by or for an Authorized User which solicits Bids from Contractors previously qualified under a Back-Drop Contract.

**MULTIPLE AWARD** A determination and award of a Contract in the discretion of the Commissioner to more than one responsive and responsible Bidder who meets the requirements of a specification, where the multiple award is made on the grounds set forth in the Bid Document in order to satisfy multiple factors and needs of Authorized Users (e.g., complexity of items, various manufacturers, differences in performance required to accomplish or produce required end results, production and distribution facilities, price, compliance with delivery requirements, geographic location or other pertinent factors).

**NEW PRODUCT RELEASES** (Product Revisions) Any commercially released revisions to the licensed version of a Product as may be generally offered and available to Authorized Users. New releases involve a substantial revision of functionality from a previously released version of the Product.

**OGS** The New York State Office of General Services.

**PROCUREMENT RECORD** Documentation by the Authorized User of the decisions made and approach taken during the procurement process and during the contract term.

**PRODUCT** A deliverable under any Bid or Contract which may include commodities, services and/or technology. The term "Product" includes Licensed Software.

**PROPRIETARY** Protected by secrecy, patent, copyright or trademark against commercial competition.

**PURCHASE ORDER** The Authorized User's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, electronic Purchase Order, or other authorized instrument).

**REQUEST FOR PROPOSALS (RFP)** A type of Bid Document that is used for procurements where factors in addition to cost are considered and weighted in awarding the contract and where the method of award is "best value," as defined by the State Finance Law.

**REQUEST FOR QUOTATION (RFQ)** A type of Bid Document that can be used when a formal Bid opening is not required (e.g., discretionary, sole source, single source or emergency purchases).

**RESPONSIBLE BIDDER** A Bidder that is determined to have financial and organizational capacity, legal authority, satisfactory previous performance, skill, judgment and integrity, and that is found to be competent, reliable and experienced, as determined by the Commissioner. For purposes of being deemed responsible, a Bidder must also be determined to be in compliance with Sections 139-j and 139-k of the State Finance Law relative to restrictions on contacts during the procurement process and disclosure of contacts and prior findings of non-responsibility under these statutes.

**RESPONSIVE BIDDER** A Bidder meeting the specifications or requirements prescribed in the Bid Document or solicitation, as determined by the OGS Commissioner.

**SINGLE SOURCE** A procurement where two or more Bidders can supply the required Product, and the Commissioner may award the contract to one Bidder over the other.

**SITE** The location (street address) where Product will be executed or services delivered.

**SOLE SOURCE** A procurement where only one Bidder is capable of supplying the required Product.

**SOURCE CODE** The programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine Object Code.

**STATE** State of New York.

**SUBCONTRACTOR** Any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.

**TERMS OF LICENSE** The terms and conditions set forth in the Contract that are in effect and applicable to a Purchase Order at the time of order placement.

**VIRUS** Any computer code, whether or not written or conceived by Contractor, that disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

### **BID SUBMISSION**

**6. INTERNATIONAL BIDDING** All offers (tenders), and all information and Product required by the solicitation or provided as explanation thereof, shall be submitted in English. All prices shall be expressed, and all payments shall be made, in United States Dollars (\$US). Any offers (tenders) submitted which do not meet the above criteria will be rejected.

**7. BID OPENING** Bids may, as applicable, be opened publicly. The Commissioner reserves the right at any time to postpone or cancel a scheduled Bid opening.

**8. BID SUBMISSION** All Bids are to be packaged, sealed and submitted to the location stated in the Bid Specifications. Bidders are solely responsible for timely delivery of their Bids to the location set forth in the Bid Specifications prior to the stated Bid opening date/time.

A Bid return envelope, if provided with the Bid Specifications, should be used with the Bid sealed inside. If the Bid response does not fit into the envelope, the Bid envelope should be attached to the outside of the sealed box or package with the Bid inside. If using a commercial delivery company that requires use of their shipping package or envelope, Bidder's sealed Bid, labeled as detailed below, should be placed within the shipper's sealed envelope to ensure that the Bid is not prematurely opened.

All Bids must have a label on the outside of the package or shipping container outlining the following information:

**"BID ENCLOSED** (bold print, all capitals)

- Group Number
- IFB or RFP Number
- Bid Submission date and time"

In the event that a Bidder fails to provide such information on the return Bid envelope or shipping material, the receiving entity reserves the right to open the shipping package or envelope to determine the proper Bid number or Product group, and the date and time of Bid opening. Bidder shall have no claim against the receiving entity arising from such opening and such opening shall not affect the validity of the Bid or the procurement.

Notwithstanding the receiving agency's right to open a Bid to ascertain the foregoing information, Bidder assumes all risk of late delivery associated with the Bid not being identified, packaged or labeled in accordance with the foregoing requirements.

All Bids must be signed by a person authorized to commit the Bidder to the terms of the Bid Documents and the content of the Bid (offer).

**9. FACSIMILE SUBMISSIONS** Unless specifically prohibited by the terms of the Bid Specifications, facsimile Bids may be SUBMITTED AT THE SOLE OPTION AND RISK OF THE BIDDER. Only the FAX number(s) indicated in the Bid Specifications may be used. Access to the facsimile machine(s) is on a "first come, first serve" basis, and the Commissioner bears no liability or responsibility and makes no guarantee whatsoever with respect to the Bidder's access to such equipment at any specific time. Bidders are solely responsible for submission and receipt of the entire facsimile Bid by the Authorized User prior to Bid opening and must include on the first page of the transmission the total number of pages transmitted in the facsimile, including the cover page. Incomplete, ambiguous or unreadable transmissions in whole or in part may be rejected at the sole discretion of the Commissioner. Facsimile Bids are fully governed by all conditions outlined in the Bid Documents and must be submitted on forms or in the format required in the Bid Specifications, including the executed signature page and acknowledgment.

**10. AUTHENTICATION OF FACSIMILE BIDS** The act of submitting a Bid by facsimile transmission, including an executed signature page or as otherwise specified in the Bid Documents, shall be deemed a confirming act by Bidder which authenticates the signing of the Bid.

**11. LATE BIDS** For purposes of Bid openings held and conducted by OGS, a Bid must be received in such place as may be designated in the Bid Documents or if no place is specified in the OGS Mailroom located in the Empire State Plaza, Albany, New York 12242, at or before the date and time established in the Bid Specifications for the Bid opening. For purposes of Bid openings held and conducted by Authorized Users other than OGS, the term late Bid is defined as a Bid not received in the location established in the Bid Specifications at or before the date and time specified for the Bid opening.

Any Bid received at the specified location after the time specified will be considered a late Bid. A late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of the Bid Documents are received or, (ii) in the case of a multiple award, an insufficient number of timely Bids were received to satisfy the multiple award; and acceptance of the late Bid is in the best interests of the Authorized Users. Bids submitted for continuous or periodic recruitment contract awards must meet the submission requirements associated with their specifications. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the Authorized User shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance shall not excuse late Bid submissions. Determinations relative to Bid timeliness shall be at the sole discretion of the Commissioner.

**12. BID CONTENTS** Bids must be complete and legible. All Bids must be signed. All information required by the Bid Specifications must be supplied by the Bidder on the forms or in the format specified. No alteration, erasure or addition is to be made to the Bid Documents. Changes may be ignored by the Commissioner or may be grounds for rejection of the Bid. Changes, corrections and/or use of white-out in the Bid or Bidder's response portion of the Bid Document must be initialed by an authorized representative of the Bidder. Bidders are cautioned to verify their Bids before submission, as amendments to Bids or requests for withdrawal of Bids received by the Commissioner after the time specified for the Bid opening, may not be considered.

**13. EXTRANEIOUS TERMS** Bids must conform to the terms set forth in the Bid Documents, as extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms)

may render the Bid non-responsive and may result in rejection of the Bid.

Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only.

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

- a. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form; and
- b. The writing must identify the particular specification requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and
- c. The Bidder shall enumerate the proposed addition, counter offer, modification or deviation from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Commissioner or Authorized User expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

**14. CONFIDENTIAL/TRADE SECRET MATERIALS**

**a. Contractor** Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the Bidder. Marking the Bid as "confidential" or "proprietary" on its face or in the document header or footer shall not be considered by the Commissioner or Authorized User to be sufficient without specific justification as to why disclosure of particular information in the Bid would cause substantial injury to the competitive position of the Bidder. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures. Properly identified information that has been designated confidential, trade secret, or proprietary by the Bidder will not be disclosed except as may be required by the Freedom of Information Law or other applicable State and federal laws.

**b. Commissioner or Authorized User** Contractor further warrants, covenants and represents that any confidential information obtained by Contractor, its agents, Subcontractors, officers, distributors, resellers or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, or commercial proprietary information in the possession of the State or any Authorized User hereunder or received from another third party, will not be divulged to any third parties. Contractor shall not be required to keep confidential any such material that is publicly available through no fault of Contractor, independently developed by Contractor without reliance on confidential information of the Authorized User, or otherwise obtained under the Freedom of Information Act or other applicable New York State laws and regulations. This warranty shall survive termination of this Contract.

Contractor further agrees to take appropriate steps as to its agents, Subcontractors, officers, distributors, resellers or employees regarding the obligations arising under this clause to insure such confidentiality.

**15. RELEASE OF BID EVALUATION MATERIALS** Requests concerning the evaluation of Bids may be submitted under the Freedom of Information Law. Information, other than statistical or factual tabulations or data such as the Bid Tabulation, shall only be released as required by law after Contract award. Bid Tabulations are not maintained for all procurements. Names of Bidders may be disclosed after Bid opening upon request. Written requests should be directed to the Commissioner.

**16. FREEDOM OF INFORMATION LAW** During the evaluation process, the content of each Bid will be held in confidence and details of any Bid will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process. If the Bid contains any such trade secret or other confidential or proprietary information, it must be accompanied in the Bid with a written request to the Commissioner to not disclose such information. Such request must state with particularity the reasons why the information should not be available for disclosure and must be provided at the time of submission of the Bid. Notations in the header, footer or watermark of the Bid Document will not be considered sufficient to constitute a request for non-disclosure of trade secret or other confidential or proprietary information. Where a Freedom of Information request is made for trademark or other confidential or proprietary information, the Commissioner reserves the right to determine upon written notice to the Bidder whether such information qualifies for the exemption for disclosure under the law. Notwithstanding the above, where a Bid tabulation is prepared and Bids publicly opened, such Bid tabulation shall be available upon request.

**17. PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS** If any portion of work being Bid is subject to the prevailing wage rate provisions of the Labor Law, the following shall apply:

**a. “Public Works” and “Building Services” - Definitions**

**i. Public Works** Labor Law Article 8 applies to contracts for public improvement in which laborers, workers or mechanics are employed on a “public works” project (distinguished from public “procurement” or “service” contracts). The State, a public benefit corporation, a municipal corporation (including a school district), or a commission appointed by law must be a party to the Contract. The wage and hours provision applies to any work performed by Contractor or Subcontractors.

**ii. Building Services** Labor Law Article 9 applies to Contracts for building service work over \$1,500 with a public agency, that: (i) involve the care or maintenance of an existing building, or (ii) involve the transportation of office furniture or equipment to or from such building, or (iii) involve the transportation and delivery of fossil fuel to such building, and (iv) the principal purpose of which is to furnish services through use of building service employees.

**b. Prevailing Wage Rate Applicable to Bid Submissions** A copy of the applicable prevailing wage rates to be paid or provided are annexed to the Bid Documents. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (i.e., fringe benefits and any cash or non-cash compensation which are not wages, as defined by law) that equal or

exceed the applicable prevailing wage rate(s) for the location where the work is to be performed. Bidders may not submit Bids based upon hourly wage rates and supplements below the applicable prevailing wage rates as established by the New York State Department of Labor. Bids that fail to comply with this requirement will be disqualified.

**c. Wage Rate Payments / Changes During Contract Term** The wages to be paid under any resulting Contract shall not be less than the prevailing rate of wages and supplements as set forth by law. It is required that the Contractor keep informed of all changes in the Prevailing Wage Rates during the Contract term that apply to the classes of individuals supplied by the Contractor on any projects resulting from this Contract, subject to the provisions of the Labor Law. Contractor is solely liable for and must pay such required prevailing wage adjustments during the Contract term as required by law.

**d. Public Posting & Certified Payroll Records** In compliance with Article 8, Section 220 of the New York State Labor Law:

**i. Posting** The Contractor must publicly post on the work site, in a prominent and accessible place, a legible schedule of the prevailing wage rates and supplements.

**ii. Payroll Records** Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. For public works contracts over \$25,000 where the Contractor maintains no regular place of business in New York State, such records must be kept at the work site. For building services contracts, such records must be kept at the work site while work is being performed.

**iii. Submission of Certified Payroll Transcripts for Public Works Contracts Only** Contractors and Subcontractors on public works projects must submit monthly payroll transcripts to the Authorized User that has prepared or directs the preparation of the plans and specifications for a public works project, as set forth in the Bid Specifications. For Mini-Bid solicitations, the payroll records must be submitted to the entity preparing the agency Mini-Bid project specification. For “agency specific” Bids, the payroll records should be submitted to the entity issuing the purchase order. For all other OGS Centralized Contracts, such records should be submitted to the individual agency issuing the purchase order(s) for the work. Upon mutual agreement of the Contractor and the Authorized User, the form of submission may be submitted in a specified disk format acceptable to the Department of Labor provided: 1) the Contractor/Subcontractor retains the original records; and, (2) an original signed letter by a duly authorized individual of the Contractor or Subcontractor attesting to the truth and accuracy of the records accompanies the disk. This provision does not apply to Article 9 of the Labor Law building services contracts.

**iv. Records Retention** Contractors and Subcontractors must preserve such certified transcripts for a period of three years from the date of completion of work on the awarded contract.

**Day’s Labor** Eight hours shall constitute a legal day’s work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law.

No laborers, workmen or mechanics in the employ of the Contractor, Subcontractor or other person doing or contracting to do all or part of the work contemplated by the Contract shall be permitted or required to work more than eight hours in any one calendar day or more than five calendar days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property.

“Extraordinary emergency” shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the NYS Commissioner of Labor for the preservation of the Contract site or for the protection of the life and limb of the persons using the Contract site.

#### 18. TAXES

a. Unless otherwise specified in the Bid Specifications or Contract, the quoted Bid price includes all taxes applicable to the transaction.

b. Purchases made by the State of New York and certain non-State Authorized Users are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by a State Agency or the invoice forwarded to authorize payment for such purchases will be sufficient evidence that the sale by the Contractor was made to the State, an exempt organization under Section 1116 (a) (1) of the Tax Law. Non-State Authorized Users must offer their own proof of exemption upon request. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.

c. Pursuant to Revised Tax Law 5-a, Contractor will be required to furnish sales tax certification on its behalf and for its affiliates, and subcontractors for Contracts with a value greater than \$100,000 in accordance with provisions of the law.

d. Purchases by Authorized Users other than the State of New York may be subject to certain taxes which were not included in the Bid price, and in those instances the tax should be computed based on the Contract price and added to the invoice submitted to such entity for payment.

19. EXPENSES PRIOR TO CONTRACT EXECUTION The Commissioner and any Authorized User(s) are not liable for any costs incurred by a Vendor, Bidder or Contractor in the preparation and production of a Bid, Mini-Bid or best and final offers or for any work performed prior to Contract execution.

20. ADVERTISING RESULTS The prior written approval of the Commissioner is required in order for results of the Bid to be used by the Contractor as part of any commercial advertising. The Contractor shall also obtain the prior written approval of the Commissioner relative to the Bid or Contract for press or other media releases.

#### 21. PRODUCT REFERENCES

a. “Or Equal” In all Bid Specifications the words “or equal” are understood to apply where a copyrighted, brand name, trade name, catalog reference, or patented Product is referenced. References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Commissioner’s decision as to acceptance of the Product as equal shall be final.

b. Discrepancies in References In the event of a discrepancy between the model number referenced in the Bid Specifications and the written description of the Products which cannot be reconciled,

with respect to such discrepancy, then the written description shall prevail.

22. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS Upon the conditions specified in the Bid Specifications and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled, recyclable or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health, welfare, safety requirements or in the Bid Specifications. Contractors are further encouraged to offer remanufactured Products to the maximum extent practicable without jeopardizing the performance or intended end use of the Product and unless such use is precluded due to health, welfare, safety requirements or by the Bid Specifications. Where such use is not practical, suitable, or permitted by the Bid Specifications, Contractor shall deliver new materials in accordance with the “Warranties” set forth below.

Items with recycled, recyclable, recovered, refurbished or remanufactured content must be identified in the Bid or Bidder will be deemed to be offering new Product.

23. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS Bids offering Products that are manufactured or produced in public institutions will be rejected.

#### 24. PRICING

a. Unit Pricing If required by the Bid Specifications, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places for each item unless otherwise specified, in the Bid. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of the Commissioner, such unit pricing is obviously erroneous.

b. Net Pricing Unless otherwise required by the Bid Specifications, prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Bid Specifications, subject to the cash discount.

c. “No Charge” Bid When Bids are requested on a number of Products as a Group or Lot, a Bidder desiring to Bid “no charge” on a Product in the Group or Lot must clearly indicate such. Otherwise, such Bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the Commissioner.

d. Educational Pricing All Products to be supplied for educational purposes that are subject to educational discounts shall be identified in the Bid and such discounts shall be made available to qualifying institutions.

e. Third Party Financing If Product acquisitions are financed through any third party financing, Contractor may be required as a condition of Contract Award to agree to the terms and conditions of a “Consent & Acknowledgment Agreement” in a form acceptable to the Commissioner.

f. Best Pricing Offer During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, at the discretion of the Commissioner, shall be immediately reduced to the lower price.

Price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after:

- (i) **GSA Changes:** Where NYS Net Prices are based on an approved GSA Schedule, the date the approved GSA Schedule pricing decreases during the Contract term; or
- (ii) **Commercial Price List Reductions:** Where NYS Net Prices are based on a discount from Contractor's list prices, the date Contractor lowers its pricing to its customers generally or to similarly situated government customers during the Contract term; or
- (iii) **Special Offers/Promotions Generally:** Where Contractor generally offers more advantageous special price promotions or special discount pricing to other customers during the Contract term for a similar quantity, and the maximum price or discount associated with such offer or promotion is better than the discount or Net Price otherwise available under this Contract, such better price or discount shall apply for similar quantity transactions under this Contract for the life of such general offer or promotion; and
- (iv) **Special Offers/Promotions to Authorized Users:** Contractor may offer Authorized Users, under either this Contract or any other Contracting vehicle, competitive pricing which is lower than the NYS Net Price set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract pursuant to the foregoing paragraph (iii).

Unless otherwise specified in the Bid Specifications, Contractor may offer lower prices or better terms (see Modification of Contract Terms) on any specific Purchase Order(s) from any Authorized User without being in conflict with, or obligation to comply on a global basis, with the terms of this clause.

**g. Best and Final Prices** As specified in the Bid Documents and Contract, a Contractor may be solicited at the time of issuance of a Purchase Order or Mini-Bid award for best and final pricing for the Product or service to be delivered to the Authorized User. Contractors are encouraged to reduce their pricing upon receipt of such request.

## 25. DRAWINGS

**a. Drawings Submitted With Bid** When the Bid Specifications require the Bidder to furnish drawings and/or plans, such drawings and/or plans shall conform to the mandates of the Bid Documents and shall, when approved by the Commissioner, be considered a part of the Bid and of any resulting Contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.

**b. Drawings Submitted During the Contract Term** Where required to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall do so on an ongoing basis at no additional charge, and must, as a condition of payment, update drawings and plans during the Contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Authorized User's representative.

**c. Accuracy of Drawings Submitted** All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing product, services or installation, or carrying out any other requirements of the intended scope of work.

**26. SITE INSPECTION** Where a site inspection is required by the Bid Specifications or Project Definition, Bidder shall be required to inspect the site, including environmental or other conditions for pre-

existing deficiencies that may affect the installed Product, equipment, or environment or services to be provided and, which may affect Bidder's ability to properly deliver, install or otherwise provide the required Product. All inquiries regarding such conditions shall be made in writing. Bidder shall be deemed to have knowledge of any deficiencies or conditions which such inspection or inquiry might have disclosed. Bidder must provide a detailed explanation with its Bid if additional work is required under this clause in order to properly complete the delivery and installation of the required Product or provide the requested service.

**27. PROCUREMENT CARD** The State has entered into an agreement for purchasing card services. The Purchasing Card enables Authorized Users to make authorized purchases directly from a Contractor without processing a Purchase Orders or Purchase Authorizations. Purchasing Cards are issued to selected employees authorized to purchase for the Authorized User and having direct contact with Contractors. Cardholders can make purchases directly from any Contractor that accepts the Purchasing Card.

**The Contractor shall not process a transaction for payment through the credit card clearinghouse until the purchased products have been shipped or services performed. Unless the cardholder requests correction or replacement of a defective or faulty Product in accordance with other Contract requirements, the Contractor shall immediately credit a cardholder's account for products returned as defective or faulty.**

## 28. SAMPLES

**a. Standard Samples** Bid Specifications may indicate that the Product to be purchased must be equal to a standard sample on display in a place designated by the Commissioner and such sample will be made available to the Bidder for examination prior to the opening date. Failure by the Bidder to examine such sample shall not entitle the Bidder to any relief from the conditions imposed by the Bid Specifications.

**b. Bidder Supplied Samples** The Commissioner reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of Bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidder's name and address, any descriptive literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate Bid or Contract reference.

A sample may be held by the Commissioner during the entire term of the Contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period the sample, where feasible, will be returned as instructed by the Bidder, at the Bidder's expense and risk. Where the Bidder has failed to fully instruct the Commissioner as to the return of the sample (i.e., mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

**c. Enhanced Samples** When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractor's default, the Commissioner may procure a Product substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

d. **Conformance with Sample(s)** Submission of a sample (whether or not such sample is tested by, or for, the Commissioner) and approval thereof shall not relieve the Contractor from full compliance with all terms and conditions, performance related and otherwise, specified in the Bid Specifications. If in the judgment of the Commissioner the sample or product submitted is not in accordance with the specifications or testing requirements prescribed in the Bid Specifications, the Commissioner may reject the Bid. If an award has been made, the Commissioner may cancel the Contract at the expense of the Contractor.

e. **Testing** All samples are subject to tests in the manner and place designated by the Commissioner, either prior to or after Contract award. Unless otherwise stated in the Bid Specifications, Bidder samples consumed or rendered useless by testing will not be returned to the Bidder. Testing costs for samples that fails to meet Contract requirements may be at the expense of the Contractor.

f. **Requests For Samples By Authorized Users** Requests for samples by Authorized Users require the consent of the Contractor. Where Contractor refuses to furnish a sample, Authorized User may, in its sole discretion, make a determination on the performance capability of the Product or on the issue in question.

### **BID EVALUATION**

29. **BID EVALUATION** The Commissioner reserves the right to accept or reject any and all Bids, or separable portions of offers, and waive technicalities, irregularities, and omissions if the Commissioner determines the best interests of the State will be served. The Commissioner, in his/her sole discretion, may accept or reject illegible, incomplete or vague Bids and his/her decision shall be final. A conditional or revocable Bid which clearly communicates the terms or limitations of acceptance may be considered, and Contract award may be made in compliance with the Bidder's conditional or revocable terms in the offer.

30. **CONDITIONAL BID** Unless the Bid Specifications provides otherwise, a Bid is not rendered non-responsive if the Bidder specifies that the award will be accepted only on all or a specified group of items or Product included in the specification. It is understood that nothing herein shall be deemed to change or alter the method of award contained in the Bid Documents.

31. **CLARIFICATIONS / REVISIONS** Prior to award, the Commissioner reserves the right to seek clarifications, request Bid revisions, or to request any information deemed necessary for proper evaluation of Bids from all Bidders deemed to be eligible for Contract award. Failure to provide requested information may result in rejection of the Bid.

32. **PROMPT PAYMENT DISCOUNTS** While prompt payment discounts will not be considered in determining the low Bid, the Commissioner may consider any prompt payment discount in resolving Bids which are otherwise tied. However, any notation indicating that the price is net, (e.g., net 30 days), shall be understood to mean only that no prompt payment discount is offered by the Bidder. The imposition of service, interest, or other charges, except pursuant to the provisions of Article 11-A of the State Finance Law, which are applicable in any case, may render the Bid non-responsive and may be cause for its rejection.

33. **EQUIVALENT OR IDENTICAL BIDS** In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient. If two or more Bidders submit

substantially equivalent Bids as to pricing or other factors, the decision of the Commissioner to award a Contract to one or more of such Bidders shall be final.

34. **PERFORMANCE AND RESPONSIBILITY QUALIFICATIONS** The Commissioner reserves the right to investigate or inspect at any time whether or not the Product, services, qualifications or facilities offered by the Bidder/Contractor meet the requirements set forth in the Bid Specifications/Contract or as set forth during Contract negotiations. Contractor shall at all times during the Contract term remain responsible and responsive. A Bidder/Contractor must be prepared, if requested by the Commissioner, to present evidence of legal authority to do business in New York State, integrity, experience, ability, prior performance, organizational and financial capacity as well as where applicable, a statement as to supply, plant, machinery and capacity of the manufacturer or source for the production, distribution and servicing of the Product offered/Bid. If the Commissioner determines that the conditions and terms of the Bid Documents, Bid Specifications or Contract are not complied with, or that items, services or Product proposed to be furnished do not meet the specified requirements, or that the legal authority, integrity experience, ability, prior performance, organization and financial capacity or facilities are not satisfactory, the Commissioner may reject such Bid or terminate the Contract.

35. **DISQUALIFICATION FOR PAST PERFORMANCE AND FINDINGS OF NON-RESPONSIBILITY** Bidder may be disqualified from receiving awards if Bidder, or anyone in Bidder's employment, has previously failed to perform satisfactorily in connection with public Bidding or contracts or is deemed non-responsive.

36. **QUANTITY CHANGES PRIOR TO AWARD** The Commissioner reserves the right, at any time prior to the award of a specific quantity Contract, to alter in good faith the quantities listed in the Bid Specifications. In the event such right is exercised, the lowest responsible Bidder meeting Bid Specifications will be advised of the revised quantities and afforded an opportunity to extend or reduce its Bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its Bid price may result in the rejection of its Bid and the award of such Contract to the lowest responsible Bidder who accepts the revised qualifications.

37. **TIMEFRAME FOR OFFERS** The Commissioner reserves the right to make awards within sixty (60) days after the date of the Bid opening or such other period of time as set forth in the Bid Documents, during which period, Bids must remain firm and cannot be withdrawn. Pursuant to Section 163(9)(e) of the State Finance Law and Section 2-205 of the Uniform Commercial Code when applicable, where an award is not made within the sixty (60) day period or other time specified as set forth in the Bid Documents, the Bids shall remain firm until such later time as either a Contract is awarded or the Bidder delivers to the Commissioner written notice of the withdrawal of its Bid. Any Bid which expressly states therein that acceptance must be made within a shorter specified time, may at the sole discretion of the Commissioner, be accepted or rejected.

### **TERMS & CONDITIONS**

38. **CONTRACT CREATION / EXECUTION** Except for contracts governed by Article 11-B of the State Finance Law, subject to and upon receipt of all required approvals as set forth in the Bid Specifications a Contract shall be deemed executed and created with the successful Bidder(s), upon the Commissioner's mailing or

electronic communication to the address on the Bid/Contract of: (i) the final Contract Award Notice; (ii) a fully executed Contract; or (iii) a Purchase Order authorized by the Commissioner.

**39. PARTICIPATION IN CENTRALIZED CONTRACTS** The following shall not limit or inhibit the OGS Commissioner's authority under State Finance Law, Section 163 (10) (e) (Piggybacking):

**a. Agencies** All State Agencies may utilize and purchase under any state Centralized Contract let by the Commissioner, unless the Bid Documents limit purchases to specific State Agencies.

**b. Non-State Agency Authorized Users** Authorized Users other than State Agencies are permitted to make purchases through state Centralized Contracts where permitted by law, the Contract or the Commissioner.

**c. Voluntary Extension** Purchase Orders issued against a State Centralized Contract by any Authorized User not provided for in the Bid Specifications shall be honored by the Contractor at its discretion and only with the approval of the OGS Commissioner and any other approvals required by law. Contractors are encouraged to voluntarily extend service Contracts to those additional entities authorized to utilize commodity Contracts under Section 163 (3) (iv) of the State Finance Law.

**d. Responsibility for Performance** Participation in state Centralized Contracts by Authorized Users is permitted upon the following conditions: (i) the responsibility with regard to performance of any contractual obligation, covenant, condition or term thereunder by any Authorized User other than State Agencies shall be borne and is expressly assumed by such Authorized User and not by the State; (ii) a breach of the Contract by any particular Authorized User shall neither constitute nor be deemed a breach of the Contract as a whole which shall remain in full force and effect, and shall not affect the validity of the Contract nor the obligations of the Contractor thereunder respecting non-breaching Authorized Users, whether State or otherwise; (iii) for a breach by an Authorized User other than a State Agency, the State specifically and expressly disclaims any and all liability for such breach; and (iv) each non-state agency Authorized User and Contractor guarantees to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by their failure to perform in accordance with its obligations under the Contract.

**e. Contract Migration** Authorized Users holding individual Contracts with a Contractor at the time that Contractor is awarded a Centralized Contract for the same Products or services shall be permitted to migrate to that Centralized Contract effective with its commencement date. Such migration shall not operate to diminish, alter or eliminate any right that the Authorized User otherwise had under the terms and conditions of their individual Contract.

**40. MODIFICATION OF CONTRACT TERMS** The terms and conditions set forth in the Contract shall govern all transactions by Authorized User(s) under this Contract. The Contract may only be modified or amended upon mutual written agreement of the Commissioner and Contractor.

The Contractor may, however, offer Authorized User(s) more advantageous pricing, payment, or other terms and conditions than those set forth in the Contract. In such event, a copy of such terms shall be furnished to the Authorized User(s) and Commissioner by the Contractor at the time of such offer.

Other than where such terms are more advantageous for the Authorized User(s) than those set forth in the Contract, no alteration or modification of the terms of the Contract, including substitution of Product, shall be valid or binding against Authorized User(s) unless authorized by the Commissioner or specified in the Contract Award Notification. No such alteration or modification shall be made by unilaterally affixing such terms to Product upon delivery (including, but not limited to, attachment or inclusion of standard pre-printed order forms, product literature, "shrink wrap" terms accompanying software upon delivery, or other documents) or by incorporating such terms onto order forms, purchase orders or other documents forwarded by the Contractor for payment, notwithstanding Authorized User's subsequent acceptance of Product, or that Authorized User has subsequently processed such document for approval or payment.

**41. SCOPE CHANGES** The Commissioner reserves the right, unilaterally, to require, by written order, changes by altering, adding to or deducting from the Bid Specifications, such changes to be within the general scope of the Contract. The Commissioner may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the consent of the Contractor, which consent shall not be unreasonably withheld.

**42. ESTIMATED / SPECIFIC QUANTITY CONTRACTS** Estimated quantity contracts are expressly agreed and understood to be made for only the quantities, if any, actually ordered during the Contract term. No guarantee of any quantity(s) is implied or given. Purchases by Authorized Users from Contracts for services and technology are voluntary.

With respect to any specific quantity stated in the contract, the Commissioner reserves the right after award to order up to 20% more or less (rounded to the next highest whole number) than the specific quantities called for in the Contract. Notwithstanding the foregoing, the Commissioner may purchase greater or lesser percentages of Contract quantities should the Commissioner and Contractor so agree. Such agreement may include an equitable price adjustment.

**43. EMERGENCY CONTRACTS** In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or the Commissioner determines pursuant to his/her authority under Section 163 (10) (b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of Product, the Commissioner reserves the right to obtain such Product from any source, including but not limited to this Contract(s), as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for Product procured from other sources pursuant to this paragraph. The reasons underlying the finding that an emergency exists shall be included in the procurement record.

**44. PURCHASE ORDERS** Unless otherwise authorized in writing by the Commissioner, no Product is to be delivered or furnished by Contractor until transmittal of an official Purchase Order from the Authorized User. Unless terminated or cancelled pursuant to the authority vested in the Commissioner, Purchase Orders shall be effective and binding upon the Contractor when placed in the mail or electronically transmitted prior to the termination of the contract period, addressed to the Contractor at the address for receipt of orders set forth in the Contract or in the Contract Award Notification.

All Purchase Orders issued pursuant to Contracts let by the Commissioner must bear the appropriate Contract number and, if necessary, required State approvals. As deemed necessary, the Authorized User may confirm pricing and other Product information

with the Contractor prior to placement of the Purchase Order. The State reserves the right to require any other information from the Contractor which the State deems necessary in order to complete any Purchase Order placed under the Contract. Unless otherwise specified, all Purchase Orders against Centralized Contracts will be placed by Authorized Users directly with the Contractor and any discrepancy between the terms stated on the vendor's order form, confirmation or acknowledgment, and the Contract terms shall be resolved in favor of the terms most favorable to the Authorized User. Should an Authorized User add written terms and conditions to the Purchase Order that conflict with the terms and conditions of the Contract, the Contractor has the option of rejecting the Purchase Order within five business days of its receipt but shall first attempt to negotiate the additional written terms and conditions in good faith with the Authorized User, or fulfill the Purchase Order. Notwithstanding the above, the Authorized User reserves the right to dispute any discrepancies arising from the presentation of additional terms and conditions with the Contractor.

If, with respect to an Agency Specific Contract let by the OGS Commissioner, a Purchase Order is not received by the Contractor within two weeks after the issuance of a Contract Award Notification, it is the responsibility of the Contractor to request in writing that the appropriate Authorized User forward a Purchase Order. If, thereafter, a Purchase Order is not received within a reasonable period of time, the Contractor shall promptly notify in writing the appropriate purchasing officer in OGS. Failure to timely notify such officer may, in the discretion of the OGS Commissioner and without cost to the State, result in the cancellation of such requirement by the OGS Commissioner with a corresponding reduction in the Contract quantity and price.

**45. PRODUCT DELIVERY** Delivery must be made as ordered to the address specified on the Purchase Order and in accordance with the terms of the Contract or Contract Award Notice. Unless otherwise specified in the Bid Documents, delivery shall be made within thirty calendar days after receipt of a Purchase Order by the Contractor. The decision of the Commissioner as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify the Commissioner and the Authorized User, and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of time for delivery must be requested in writing by the Contractor and approved in writing by the Authorized User. Failure to meet such delivery time schedule may be grounds for cancellation of the order or, in the Commissioner's discretion, the Contract.

**46. WEEKEND AND HOLIDAY DELIVERIES** Unless otherwise specified in the Bid Specifications or by an Authorized User, deliveries will be scheduled for ordinary business hours, Monday through Friday (excluding legal holidays observed by the State of New York). Deliveries may be scheduled by mutual agreement for Saturdays, Sundays or legal holidays observed by the State of New York where the Product is for daily consumption, an emergency exists, the delivery is a replacement, delivery is late, or other reasonable circumstance in which event the convenience of the Authorized User shall govern.

**47. SHIPPING/RECEIPT OF PRODUCT**

**a. Packaging** Tangible Product shall be securely and properly packed for shipment, storage and stocking in appropriate, clearly labeled shipping containers and according to accepted commercial practice, without any extra charges for packing materials, cases or other types of containers. The container shall become and remain the

property of the Authorized User unless otherwise specified in the Contract documents.

**b. Shipping Charges** Unless otherwise stated in the Bid Specifications, all deliveries shall be deemed to be freight on board (F.O.B.) destination tailgate delivery at the dock of the Authorized User. Unless otherwise agreed, items purchased at a price F.O.B. Shipping point plus transportation charges shall not relieve the Contractor from responsibility for safe and proper delivery notwithstanding the Authorized User's payment of transportation charges. Contractor shall be responsible for ensuring that the Bill of Lading states "charges prepaid" for all shipments.

**c. Receipt of Product** The Contractor shall be solely responsible for assuring that deliveries are made to personnel authorized to accept delivery on behalf of the Authorized User. Any losses resulting from the Contractor's failure to deliver Product to authorized personnel shall be borne exclusively by the Contractor.

**48. TITLE AND RISK OF LOSS** Notwithstanding the form of shipment, title or other property interest, risk of loss shall not pass from the Contractor to the Authorized User until the Products have been received, inspected and accepted by the receiving entity. Acceptance shall occur within a reasonable time or in accordance with such other defined acceptance period as may be specified in the Bid Specifications or Purchase Order. Mere acknowledgment by Authorized User personnel of the delivery or receipt of goods (e.g., signed bill of lading) shall not be deemed or construed as acceptance of the Products received. Any delivery of Product that is substandard or does not comply with the Bid Specifications or Contract terms and conditions, may be rejected or accepted on an adjusted price basis, as determined by the Commissioner.

**49. RE-WEIGHING PRODUCT** Deliveries are subject to re-weighing at the point of destination by the Authorized User. If shrinkage occurs which exceeds that normally allowable in the trade, the Authorized User shall have the option to require delivery of the difference in quantity or to reduce the payment accordingly. Such option shall be exercised in writing by the Authorized User.

**50. PRODUCT SUBSTITUTION** In the event a specified manufacturer's Product listed in the Contract becomes unavailable or cannot be supplied by the Contractor for any reason (except as provided for in the Savings/Force Majeure Clause) a Product deemed in writing by the Commissioner to be equal to or better than the specified Product must be substituted by the Contractor at no additional cost or expense to the Authorized User. Unless otherwise specified, any substitution of Product prior to the Commissioner's written approval may be cause for cancellation of Contract.

**51. REJECTED PRODUCT** When Product is rejected, it must be removed by the Contractor from the premises of the Authorized User within ten calendar days of notification of rejection by the Authorized User. Upon notification of rejection, risk of loss of rejected or non-conforming Product shall remain with Contractor. Rejected items not removed by the Contractor within ten calendar days of notification shall be regarded as abandoned by the Contractor, and the Authorized User shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Authorized User for any and all costs and expenses incurred in storage or effecting removal or disposition after the ten-calendar day period.

**52. INSTALLATION** Where installation is required, Contractor shall be responsible for placing and installing the Product in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects that would mar

the appearance of the Product or render it structurally unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or place the Product in the proper location. The Contractor shall protect the site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration, dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or site. Work shall be performed to cause the least inconvenience to the Authorized User(s) and with proper consideration for the rights of other Contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those of other Contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and in a neat, unobstructed condition, and everything in satisfactory repair and order.

### **53. REPAIRED OR REPLACED PARTS / COMPONENTS**

Where the Contractor is required to repair, replace or substitute Product or parts or components of the Product under the Contract, the repaired, replaced or substituted Products shall be subject to all terms and conditions for new parts and components set forth in the Contract including Warranties, as set forth in the Additional Warranties Clause herein. Replaced or repaired Product or parts and components of such Product shall be new and shall, if available, be replaced by the original manufacturer's component or part. Remanufactured parts or components meeting new Product standards may be permitted by the Commissioner or Authorized User. Before installation, all proposed substitutes for the original manufacturer's installed parts or components must be approved by the Authorized User. The part or component shall be equal to or of better quality than the original part or component being replaced.

**54. ON-SITE STORAGE** With the written approval of the Authorized User, materials, equipment or supplies may be stored at the Authorized User's site at the Contractor's sole risk.

**55. EMPLOYEES, SUBCONTRACTORS & AGENTS** All employees, Subcontractors or agents performing work under the Contract must be trained staff or technicians who meet or exceed the professional, technical and training qualifications set forth in the Bid Specifications or the Bid Documents, whichever is more restrictive, and must comply with all security and administrative requirements of the Authorized User. The Commissioner reserves the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on, including but not limited to, professional, technical or training qualifications, quality of work or change in security status or non-compliance with Authorized User's security or other requirements. Such approval shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms. The Commissioner reserves the right to reject and/or bar from the facility for cause any employee, Subcontractor, or agents of the Contractor.

**56. ASSIGNMENT** The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the contract or its right, title or interest therein, or its power to execute such contract to any other person, company, firm or corporation in performance of the contract without the prior written consent of the Commissioner or Authorized User (as applicable). Failure to obtain consent to assignment from the Authorized User shall revoke and annul such Contract. Notwithstanding the foregoing, the State shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of monies becoming effective, the Contractor shall file a written notice of such monies assignment(s) with the Comptroller. Prior to a consent to assignment of a Contract, or portion thereof, becoming effective, the Contractor

shall submit the request to assignment to the Commissioner and seek written agreement from the Commissioner which will be filed with the Comptroller. The Commissioner reserves the right to reject any proposed assignee in his/her discretion.

Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another State Agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the functions are transferred to a successor Agency or to another Agency that assumes OGS responsibilities for the Contract.

**57. SUBCONTRACTORS AND SUPPLIERS** The Commissioner reserves the right to reject any proposed Subcontractor or supplier for bona fide business reasons, which may include, but are not limited to: they are on the Department of Labor's list of companies with which New York State cannot do business; the Commissioner determines that the company is not qualified; the Commissioner determines that the company is not responsible; the company has previously provided unsatisfactory work or services; the company failed to solicit minority and women's business enterprises (M/WBE) Bidders as required by prior Contracts.

**58. PERFORMANCE / BID BOND** The Commissioner reserves the right to require a Bidder or Contractor to furnish without additional cost, a performance, payment or Bid bond or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract. Where required, such bond or other security shall be in the form prescribed by the Commissioner.

**59. SUSPENSION OF WORK** The Commissioner, in his/her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, in the best interests of the Authorized User. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze or reduction on State spending, declaration of emergency, contract compliance issues or other such circumstances. Upon issuance of such notice, the Contractor is not to accept any Purchase Orders, and shall comply with the suspension order. Activity may resume at such time as the Commissioner issues a formal written notice authorizing a resumption of performance under the Contract.

An Authorized User may issue a formal written notice for the suspension of work for which it has engaged the Contractor for reasons specified in the above paragraph. The written notice shall set forth the reason for such suspension and a copy of the written notice shall be provided to the Commissioner.

### **60. TERMINATION**

**a. For Cause:** For a material breach that remains uncured for more than thirty (30) days or other specified period after written notice to the Contractor, the Contract or Purchase Order may be terminated by the Commissioner or Authorized User at the Contractor's expense where Contractor becomes unable or incapable of performing, or meeting any requirements or qualifications set forth in the Contract, or for non-performance, or upon a determination that Contractor is non-responsible. Such termination shall be upon written notice to the Contractor. In such event, the Commissioner or Authorized User may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

**b. For Convenience:** By written notice, this Contract may be terminated at any time by the State for convenience upon sixty (60) days written notice or other specified period without penalty or other early termination charges due. Such termination of the Contract shall not

affect any project or Purchase Order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, the Authorized User shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and provide any outstanding deliverables.

**c. For Violation of the Sections 139-j and 139-k of the State Finance Law:** The Commissioner reserves the right to terminate the Contract in the event it is found that the certification filed by the Bidder in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

**d. For Violation of Revised Tax Law 5a:** The Commissioner reserves the right to terminate the contract in the event it is found that the certification filed by the Contractor in accordance with §5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise its termination right by providing written notification to the Contractor.

**61. SAVINGS/FORCE MAJEURE** A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the Commissioner in the performance of the Contract which non-performance, by exercise of reasonable diligence, cannot be prevented. Contractor shall provide the Commissioner with written notice of any force majeure occurrence as soon as the delay is known.

Neither the Contractor nor the Commissioner shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and the Commissioner to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of the Commissioner where the delay or failure will significantly impair the value of the Contract to the State or to Authorized Users, the Commissioner may:

- a. Accept allocated performance or deliveries from the Contractor. The Contractor, however, hereby agrees to grant preferential treatment to Authorized Users with respect to Product subjected to allocation; and/or
- b. Purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the State; or
- c. Terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, the Commissioner reserves the right, in his/her sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the

marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance that continued performance of the Contract would result in a substantial loss.

**62. CONTRACT BILLINGS** Contractor and the distributors/resellers designated by the Contractor, if any, shall provide complete and accurate billing invoices to each Authorized User in order to receive payment. Billings for Authorized Users must contain all information required by the Contract and the State Comptroller. The State Comptroller shall render payment for Authorized User purchases, and such payment shall be made in accordance with ordinary State procedures and practices. Payment of Contract purchases made by Authorized Users, other than Agencies, shall be billed directly by Contractor on invoices/vouchers, together with complete and accurate supporting documentation as required by the Authorized User.

Submission of an invoice and payment thereof shall not preclude the Commissioner from reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.

Contractor shall provide, upon request of the Commissioner, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in the format requested by the Commissioner and in a media commercially available from the Contractor. The Commissioner may direct the Contractor to provide the information to the State Comptroller or to any Authorized User of the Contract.

**63. DEFAULT – AUTHORIZED USER**

**a. Breach of Authorized User Not Breach of Centralized Contract.** An Authorized User's breach shall not be deemed a breach of the Centralized Contract, rather it shall be deemed a breach of the Authorized User's performance under the terms and conditions of the Centralized Contract.

**b. Failure to Make Payment.** In the event a participating Authorized User fails to make payment to the Contractor for Products delivered, accepted and properly invoiced, within 60 days of such delivery and acceptance, the Contractor may, upon 10 days advance written notice to both the Commissioner and the Authorized User's purchasing official, suspend additional shipments of Product or provision of services to such entity until such time as reasonable arrangements have been made and assurances given by such entity for current and future Contract payments.

**c. Notice of Breach.** Notwithstanding the foregoing, the Contractor shall, at least 10 days prior to declaring a breach of Contract by any Authorized User, by certified or registered mail, notify both the Commissioner and the purchasing official of the breaching Authorized User of the specific facts, circumstances and grounds upon which a breach will be declared.

**d. It is understood, however, that if the Contractor's basis for declaring a breach is insufficient, the Contractor's declaration of breach and failure to service an Authorized User shall constitute a breach of its Contract and the Authorized User may thereafter seek any remedy available at law or equity.**

**64. INTEREST ON LATE PAYMENTS**

**a. State Agencies** The payment of interest on certain payments due and owed by Agency may be made in accordance with Article 11-A of the State Finance Law (SFL §179-d et. Seq.) and Title 2 of the New York Code of Rules and Regulations, Part 18 (Implementation of Prompt Payment Legislation -2 NYCRR §18.1 et seq.).

**b. By Non-State Agencies** The terms of Article 11-A apply only to procurements by and the consequent payment obligations of Agencies. Neither expressly nor by any implication is the statute applicable to Non-State Authorized Users. Neither OGS nor the State Comptroller is responsible for payments on any purchases made by a Non-State Agency Authorized User.

**c. By Contractor** Should the Contractor be liable for any payments to the State hereunder, interest, late payment charges and collection fee charges will be determined and assessed pursuant to Section 18 of the State Finance Law.

**65. REMEDIES FOR BREACH** It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

**a. Cover/Substitute Performance** In the event of Contractor's material breach, the Commissioner may, with or without formally Bidding: (i) Purchase from other sources; or (ii) If the Commissioner is unsuccessful after making reasonable attempts, under the circumstances then existing, to timely obtain acceptable service or acquire replacement Product of equal or comparable quality, the Commissioner may acquire acceptable replacement Product of lesser or greater quality.

Such purchases may, in the discretion of the Commissioner, be deducted from the Contract quantity and payments due Contractor.

**b. Withhold Payment** In any case where a question of non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Commissioner. Should the amount withheld be finally paid, a cash discount originally offered may be taken as if no delay in payment had occurred.

**c. Bankruptcy** In the event that the Contractor files a petition under the U.S. Bankruptcy Code during the term of this Centralized Contract, Authorized Users may, at their discretion, make application to exercise its right to set-off against monies due the Debtor or, under the Doctrine of Recoupment, credit the Authorized User the amounts owed by the Contractor arising out of the same transactions.

**d. Reimbursement of Costs Incurred** The Contractor agrees to reimburse the Authorized User promptly for any and all additional costs and expenses incurred for acquiring acceptable services, and/or replacement Product. Should the cost of cover be less than the Contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of the Contractor, all costs and expenses expended or incurred by the Authorized User in connection therewith, including reasonable attorney's fees, shall be paid by the Contractor.

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the Contract, the ordering Authorized User may rent substitute equipment temporarily. Any sums expended for such rental shall, upon demand, be reimbursed to the Authorized User promptly by the Contractor or deducted by the Authorized User from payments

due or to become due the Contractor on the same or another transaction.

**e. Deduction/Credit** Sums due as a result of these remedies may be deducted or offset by the Authorized User from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the Authorized User the amount of such claim or portion of the claim still outstanding, on demand. The Commissioner reserves the right to determine the disposition of any rebates, settlements, restitution, liquidated damages, etc., which arise from the administration of the Contract.

**66. ASSIGNMENT OF CLAIM** Contractor hereby assigns to the State any and all its claims for overcharges associated with this Contract which may arise under the antitrust laws of the United States, 15 USC Section 1, et. seq. and the antitrust laws of the State of New York, General Business Law Section 340, et. seq.

**67. TOXIC SUBSTANCES** Each Contractor furnishing a toxic substance as defined by Section 875 of the Labor Law, shall provide such Authorized User with not less than two copies of a material safety data sheet, which sheet shall include for each such substance the information outlined in Section 876 of the Labor Law.

Before any chemical product is used or applied on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by the Authorized User agency representative.

**68. INDEPENDENT CONTRACTOR** It is understood and agreed that the legal status of the Contractor, its agents, officers and employees under this Contract is that of an independent Contractor, and in no manner shall they be deemed employees of the Authorized User, and therefore are not entitled to any of the benefits associated with such employment. The Contractor agrees, during the term of this Contract, to maintain at Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the Authorized User with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, state and local taxes, and all FICA contributions.

**69. SECURITY** Contractor warrants, covenants and represents that it will comply fully with all security procedures of the Authorized User(s) in performance of the Contract including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

**70. COOPERATION WITH THIRD PARTIES** The Contractor shall be responsible for fully cooperating with any third party, including but not limited to other Contractors or Subcontractors of the Authorized User, as necessary to ensure delivery of Product or coordination of performance of services.

**71. CONTRACT TERM - RENEWAL** In addition to any stated renewal periods in the Contract, any Contract or unit portion thereof let by the Commissioner may be extended by the Commissioner for an additional period(s) of up to one year with the written concurrence of the Contractor and Comptroller. Such extension may be exercised on a month to month basis or in other stated periods of time during the one year extension.

**72. ADDITIONAL WARRANTIES** Where Contractor, product manufacturer or service provider generally offers additional or more advantageous warranties than set forth below, Contractor shall offer or

pass through any such warranties to Authorized Users. Contractor hereby warrants and represents:

**a. Product Performance** Contractor warrants and represents that Products delivered pursuant to this Contract conform to the manufacturer's specifications, performance standards and documentation, and the documentation fully describes the proper procedure for using the Products.

**b. Title and Ownership Warranty** Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any Products transferred to Authorized User under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor fully indemnifies the Authorized User for any loss, damages or actions arising from a breach of said warranty without limitation.

**c. Contractor Compliance** Contractor represents and warrants to pay, at its sole expense, for all applicable permits, licenses, tariffs, tolls and fees to give all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Bid/Contract and any applicable laws, including but not limited to, permits, insurance coverage, licensing, proof of coverage for worker's compensation, and shall provide such proof as required by the Commissioner. Failure to do so may constitute grounds for the Commissioner to cancel or suspend this Contract, in whole or in part, or to take any other action deemed necessary by the Commissioner.

**d. Product Warranty** Unless recycled or recovered materials are available in accordance with the "Recycled or Recovered Materials" clause, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered; and no attachment or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

Contractor further warrants and represents that components or deliverables specified and furnished by or through Contractor shall individually, and where specified and furnished as a system, be substantially uninterrupted or error-free in operation and guaranteed against faulty material and workmanship for the warranty period, or for a minimum of one (1) year from the date of acceptance, whichever is longer ("Project warranty period"). During the Project warranty period, defects in the materials or workmanship of components or deliverables specified and furnished by or through Contractor shall be repaired or replaced by Contractor at no cost or expense to the Authorized User. Contractor shall extend the Project warranty period for individual component(s), or for the System as a whole, as applicable, by the cumulative period(s) of time, after notification, during which an individual component or the System requires servicing or replacement (down time) or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

Where Contractor, the Independent Software Vendor "ISV," or other third party manufacturer markets any Project Deliverable delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations during the project warranty and extended warranty period(s). Where such standard commercial warranty covers all or some of the Project warranty or

extended warranty period(s), Contractor shall be responsible for the coordination during the Project warranty or extended warranty period(s) with ISV or other third party manufacturer(s) for warranty repair or replacement of ISV or other third party manufacturer's Product.

Where Contractor, ISV or other third party manufacturer markets any Project Deliverable with a standard commercial warranty which goes beyond the Project warranty or extended warranty period(s), Contractor shall notify the Authorized User and pass through the manufacturer's standard commercial warranty to Authorized User at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the third party extended warranty after expiration of the Project warranty and extended warranty period(s).

**e. Replacement Parts Warranty** If during the regular or extended warranty period's faults develop, the Contractor shall promptly repair or, upon demand, replace the defective unit or component part affected. All costs for labor and material and transportation incurred to repair or replace defective Product during the warranty period shall be borne solely by the Contractor, and the State or Authorized User shall in no event be liable or responsible therefor.

Any part of component replaced by the Contractor under the Contract warranty shall be replaced at no cost to the Authorized User and guaranteed for the greater of: a) the warranty period under paragraph (d) above; or b) if a separate warranty for that part or component is generally offered by the manufacturer, the standard commercial warranty period offered by the manufacturer for the individual part or component.

**f. Virus Warranty** The Contractor represents and warrants that Licensed Software contains no known viruses. Contractor is not responsible for viruses introduced at Licensee's site.

**g. Date/Time Warranty** Contractor warrants that Product(s) furnished pursuant to this Contract shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of this contract through: a) ninety (90) days or b) the Contractor's or Product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this Contract for breach of warranty.

**h. Workmanship Warranty** Contract warrants that all components or deliverables specified and furnished by or through Contractor under the Project Definition/Work Order meet the

completion criteria set forth in the Project Definition/Work Order and any subsequent statement(s) of work, and that services will be provided in a workmanlike manner in accordance with industry standards.

**i. Survival of Warranties** All warranties contained in this Contract shall survive the termination of this Contract.

**73. LEGAL COMPLIANCE** Contractor represents and warrants that it shall secure all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Bid and Contract and any applicable laws, including but not limited to, permits, licensing, and shall provide such proof as required by the Commissioner. Failure to comply or failure to provide proof may constitute grounds for the Commissioner to cancel or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the Commissioner. Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.

**74. INDEMNIFICATION** Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully indemnify and save harmless the Authorized Users from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the Authorized Users.

**75. INDEMNIFICATION RELATING TO THIRD PARTY RIGHTS** The Contractor will also indemnify and hold the Authorized Users harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs that may be finally assessed against the Authorized Users in any action for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims arise from the Authorized Users gross negligence or willful misconduct, provided that the State shall give Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor.

If usage shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the Authorized User the right to continue Usage (ii) to modify the service or Product so that Usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace said service or Product or part(s) thereof, as applicable, with non-infringing service or Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided the Authorized User is given a refund for any amounts paid for the period during which Usage was not feasible.

The foregoing provisions as to protection from third party rights shall not apply to any infringement occasioned by modification by the Authorized User of any Product without Contractor's approval.

In the event that an action at law or in equity is commenced against the Authorized User arising out of a claim that the Authorized User's use of the service or Product under the Contract infringes any patent, copyright or proprietary right, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Authorized User and the Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract. Contractor shall in such event protect the interests of the Authorized User and secure a continuance to permit the Authorized User to appear and defend its interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the Authorized User may have. This constitutes the Authorized User's sole and exclusive remedy for patent infringement, or for infringement of any other third party proprietary right.

**76. LIMITATION OF LIABILITY** Except as otherwise set forth in the Indemnification Paragraphs above, the limit of liability shall be as follows:

**a.** Contractor's liability for any claim, loss or liability arising out of, or connected with the Products and services provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the charges specified in the Purchase Order for the Products and services, or parts thereof forming the basis of the Authorized User's claim, (said amount not to exceed a total of twelve (12) months charges payable under the applicable Purchase Order) or (ii) one million dollars (\$1,000,000), whichever is greater.

**b.** The Authorized User may retain such monies from any amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted against the Authorized User unless Contractor at the time of the presentation of claim shall demonstrate to the Authorized User's satisfaction that sufficient monies are set aside by the Contractor in the form of a bond or through insurance coverage to cover associated damages and other costs.

**c.** Notwithstanding the above, neither the Contractor nor the Authorized User shall be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the Authorized User, the Contractor, or by others.

**77. INSURANCE** Contractor shall secure and maintain insurance coverage as specified in the Bid Documents and shall promptly provide documentation of specified coverages to the Authorized User. If specified, the Contractor may be required to add the Authorized User as an additional insured.

**THE FOLLOWING CLAUSES PERTAIN TO  
TECHNOLOGY & NEGOTIATED CONTRACTS**

**78. SOFTWARE LICENSE GRANT** Where Product is acquired on a licensed basis the following shall constitute the license grant:

**a. License Scope** Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product within its business enterprise in the United States up to the maximum licensed capacity stated on the Purchase Order. Product may be accessed, used, executed, reproduced, displayed or performed up

to the capacity measured by the applicable licensing unit stated on the Purchase Order (i.e., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation). Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by any Authorized Users otherwise licensed to use the Product, provided that any modifications, however extensive, shall not diminish Licensor's proprietary title or interest. No license, right or interest in any trademark, trade name, or service mark is granted hereunder.

**b. License Term** The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the License Term shall be extended by the time period for testing, acceptance or trial.

**c. Licensed Documentation** If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractor's expense: (i) one (1) hard copy and one (1) master electronic copy of the Documentation in a mutually agreeable format; (ii) based on hard copy instructions for access by downloading from the Internet (iii) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License - one (1) copy per License
- Concurrent Users - 10 copies per site
- Processing Capacity - 10 copies per site

Software media must be in a format specified by the Authorized User, without requiring any type of conversion.

Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product in accordance with the terms of license.

**d. Product Technical Support & Maintenance** Licensee shall have the option of electing the Product technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to Contractor any time during the Centralized Contract term. Maintenance term(s) and any renewal(s) thereof are independent of the expiration of the Centralized Contract term and will not automatically renew.

Maintenance shall include, at a minimum, (i) the provision of error corrections, updates, revisions, fixes, upgrade and new releases to Licensee, and (ii) Help Desk assistance with locally accessible "800" or toll free, local telephone service, or alternatively on-line Help Desk accessibility. Contractor shall maintain the Products so as to provide Licensee with the ability to utilize the Products in accordance with the Product documentation without significant functional downtime to its ongoing business operations during the maintenance term.

Authorized User shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current maintenance term upon notice to Contractor. In the event that Authorized User does not initially acquire or discontinues maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor the amount which would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates.

**e. Permitted License Transfers** As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder

may be transferred or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and certify in writing that the Product is not in use at the prior site. There shall be no additional license or other transfer fees due Contractor, provided that: i) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred site (e.g., named users, seats, or MIPS); or ii) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee. In the event that the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred site, and a logical or physical partition or other means of restricting use is not available, the fees due Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

**f. Restricted Use By Outsourcers / Facilities Management, Service Bureaus / or Other Third Parties** Outsourcers, facilities management or service bureaus retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: 1) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and 2) such party has executed, or agrees to execute, the Product manufacturer's standard nondisclosure or restricted use agreement which executed agreement shall be accepted by the Contractor ("Non-Disclosure Agreement"); and 3) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third party's compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the State or Licensee.

Any third party with whom a Licensee has a relationship for a state function or business operation, shall have the temporary right to use Product (e.g., JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the function or business activity.

**g. Archival Back-Up and Disaster Recovery** Licensee may use and copy the Product and related Documentation in connection with: i) reproducing a reasonable number of copies of the Product for archival backup and disaster recovery procedures in the event of destruction or corruption of the Product or disasters or emergencies which require Licensee to restore backup(s) or to initiate disaster recovery procedures for its platform or operating systems; ii) reproducing a reasonable number of copies of the Product and related Documentation for cold site storage. "Cold Site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; iii) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed herein. "Disaster Recovery" shall be defined as the installation and storage of Product in ready-to-execute,

back-up computer systems prior to disaster or breakdown which is not used for active production or development.

**h. Confidentiality Restrictions** The Product is a trade secret, copyrighted and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of Contract. Licensee will not remove or destroy any proprietary markings of Contractor.

**i. Restricted Use by Licensee** Except as expressly authorized by the terms of license, Licensee shall not:

- (i) Copy the Product;
- (ii) Cause or permit reverse compilation or reverse assembly of all or any portion of the Product;
- (iii) Export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

**79. PRODUCT ACCEPTANCE** Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User(s) shall have thirty (30) days from the date of delivery to accept hardware products and sixty (60) days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Authorized User(s) as of the expiration of that period. The License Term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Commissioner or Authorized User agrees to accept the Product at completion of trial use.

Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User shall have the option to run testing on the Product prior to acceptance, such tests and data sets to be specified by User. Where using its own data or tests, Authorized User must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Authorized User, and shall be made part of the Contractor's standard documentation. The test data shall remain accessible to the Authorized User after completion of the test.

In the event that the documented installation test cannot be completed successfully within the specified acceptance period, and the Contractor or Product is responsible for the delay, Authorized User shall have the option to cancel the order in whole or in part, or to extend the testing period for an additional thirty (30) day increment. Authorized User shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the Authorized User for damages, loss of profits, expenses, or other remuneration of any kind.

If the Authorized User elects to provide a deficiency statement specifying how the Product fails to meet the specifications within the testing period, Contractor shall have thirty (30) days to correct the deficiency, and the Authorized User shall have an additional sixty (60) days to evaluate the Product as provided herein. If the Product does not meet the specifications at the end of the extended testing period, Authorized User, upon prior written notice to Contractor, may then reject the Product and return all defective Product to Contractor, and Contractor shall refund any monies paid by the Authorized User to Contractor therefor. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not

have been caused by negligent or willful acts or omissions of the Authorized User's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability Clause for any liability for costs incurred at the direction or recommendation of Contractor.

**80. AUDIT OF LICENSED PRODUCT USAGE** Contractor shall have the right to periodically audit, no more than annually, at Contractor's expense, use of licensed Product at any site where a copy of the Product resides provided that: (i) Contractor gives Licensee(s) at least thirty (30) days advance written notice, (ii) such audit is conducted during such party's normal business hours, (iii) the audit is conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three (3) auditing/accounting firms from which the Licensee will select one (1). In no case shall the Business Software Alliance (BSA), Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) be used directly or indirectly to conduct audits, or be recommended by Contractor; (iv) Contractor and Licensee are each entitled to designate a representative who shall be entitled to participate, and who shall mutually agree on audit format, and simultaneously review all information obtained by the audit. Such representatives also shall be entitled to copies of all reports, data or information obtained from the audit; and (v) if the audit shows that such party is not in compliance, Licensee shall be required to purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the NYS Net Price in effect at time of audit, or if none, then at the Contractor's U.S. Commercial list price. Once such additional licenses or capacities are purchased, Licensee shall be deemed to have been in compliance retroactively, and Licensee shall have no further liability of any kind for the unauthorized use of the software.

**81. OWNERSHIP/TITLE TO PROJECT DELIVERABLES**

**a. Definitions**

(i) For purposes of this paragraph, "Products." A deliverable furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media c) third party software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, object code).

(ii) For purposes of this paragraph, "Existing Products." Tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

(iii) For purposes of this paragraph, "Custom Products." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for Authorized User under the Contract.

**b. Title to Project Deliverables** Contractor acknowledges that it is commissioned by the Authorized User to perform the services detailed in the Purchase Order. Unless otherwise specified in writing in the Bid or Purchase Order, the Authorized User shall have ownership and license rights as follows:

**(i) Existing Products:**

**1. Hardware** - Title and ownership of Existing Hardware Product shall pass to Authorized User upon Acceptance.

**2. Software** - Title and ownership to Existing Software Product(s) delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the proprietary owner of other independent software vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to Authorized User in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant Authorized User a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises Authorized User as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Authorized User's satisfaction) and distribute Existing Licensed Product to the Authorized User up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purpose(s) stated in the Bid or Authorized User's Purchase Order or work order, including the financing assignment rights set forth in paragraph (c) below; and (b) recognize the State of New York as the licensee where the Authorized User is a state agency, department, board, commission, office or institution. Where these rights are not otherwise covered by the ISV's owner's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Authorized User shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this paragraph.

**(ii.) Custom Products:** Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to Authorized User the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. Authorized User may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of Authorized User taking exclusive ownership and title to such Products. In such case, Licensee on behalf of all Authorized Users shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in paragraph (b)(i)(2), above.

**c. Transfers or Assignments to a Third Party Financing Agent** It is understood and agreed by the parties that a condition precedent to the consummation of the purchase (s) under the Contract may be the obtaining of acceptable third party financing by the Authorized User. The Authorized User shall make the sole determination of the acceptability of any financing proposal. The Authorized User will make all reasonable efforts to obtain such financing, but makes no representation that such financing has been obtained as of the date of Bid receipt. Where financing is used, Authorized User may assign or transfer its rights in Licensed Products (existing or custom) to a third party financing entity or trustee ("Trustee") as collateral where required by the terms of the financing agreement. Trustee's sole rights with respect to transferability or use of Licensed Products shall be to exclusively sublicense to Authorized User all of its Licensee's rights

under the terms and conditions of the License Agreement; provided, further, however, in the event of any termination or expiration of such sublicense by reason of payment in full, all of Trustee's rights in such Licensed Product shall terminate immediately and Authorized User's prior rights to such Existing Licensed Product shall be revived.

**d. Sale or License of Custom Products Involving Tax-Exempt Financing (i.e., Certificates of Participation - COPS)** The Authorized User's sale or other transfer of Custom Products which were acquired by the Authorized User using third party, tax-exempt financing may not occur until such Custom Products are, or become, useable. In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the Authorized User which complies with the terms of this paragraph.

**e. Contractor's Obligation with Regard to ISV (Third Party) Product** Where Contractor furnishes Existing Licensed Product(s) as a Project Deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV's standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the Authorized User at Contractor's sole cost and expense.

**82. PROOF OF LICENSE** The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer's certified License Confirmation Certificates in the name of such Licensee; or (ii) a written confirmation from the Proprietary owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written confirmation from the proprietary developer. Such certificates must be in a form acceptable to the Licensee.

**83. PRODUCT VERSION** Purchase Orders shall be deemed to reference Manufacturer's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by Authorized User and Contractor is willing to provide such version.

**84. CHANGES TO PRODUCT OR SERVICE OFFERINGS**

**a. Product or Service Discontinuance** Where Contractor is the Product Manufacturer/Developer, and Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor ("withdrawn support") is no longer going to be offered, Contractor shall be required to: (i) notify the Commissioner, each Licensee and each Authorized User then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdraw support upon the Contract terms previously offered for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) at Authorized User's option, provided that the Authorized User is under contract for maintenance on the date of notice, either: provide the Authorized User with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Authorized User to continue use and maintenance of the Product.

In the event that the Contractor is not the Product Manufacturer, Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of Contractor receiving notice from the Product Manufacturer, and (ii) include in such notice the period of time from the date of

notice that the Product Manufacturer will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate Contractor's obligations where withdrawn support is being provided by an independent Subcontractor. In the event that such Subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to state approval, to an alternate Subcontractor.

**b. Product or Service Re-Bundling** In the event that Contractor is the Product manufacturer and publicly announces to all U.S. customers ("date of notice") that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, Contractor shall be required to: (i) notify the State and each Authorized User in writing of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current NYS Contract for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed rebundling change to the Commissioner for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product manufacturer.

#### **85. NO HARDSTOP/PASSIVE LICENSE MONITORING**

Unless an Authorized User is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, Contractor hereby warrants and represents that the Product and all Upgrades do not and will not contain any computer code that would disable the Product or Upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a "trap door" device). Contractor agrees that in the event of a breach or alleged breach of this provision that Authorized User shall not have an adequate remedy at law, including monetary damages, and that Authorized User shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which Authorized User shall be entitled.

#### **86. SOURCE CODE ESCROW FOR LICENSED PRODUCT**

If Source Code or Source Code escrow is offered by either Contractor or Product manufacturer or developer to any other commercial customers, Contractor shall either: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) will certify to the State that the Product manufacturer/developer has named the State, acting by and through the Authorized User, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the

Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

**FOR NEGOTIATED CONTRACTS THE FOLLOWING CLAUSES ARE RESERVED BECAUSE BIDDING DOES NOT APPLY:**

**Clauses: 7, 8, 9, 10, 11, 12, 13, 16, 15, 21, 25, 26, 28, 29, 30, 31, 32, 33, 36, 49, 50, 52, 54 and 37**

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# APPENDIX C

## LICENSE

## **I. LICENSE TERM**

The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the License Term shall be extended by the time period for testing, acceptance or trial.

## **II. CONTENT OF PRODUCTS; GRANT OF LICENSE:**

The Products shall remain the property of the Contractor. The Contractor hereby grants to Authorized User non-exclusive use of the Products and to provide the Products to End Users in accordance with this Agreement.

Scope Licensor hereby grants to Licensee a non-exclusive, non-transferable license for use of the Products (subscription to databases or hardware and software provided to allow access to databases) set forth in Appendix D in accordance with the rights and obligations set forth in Service Agreement. The license shall commence upon Licensee's receipt of Product and may survive termination of the Service Agreement. The Licensee shall enjoy use of the Products which Licensor warrants will conform to the written specifications and performance warranties set forth in Service Agreement.

Business Transfer Any License rights or hardware or software rights granted hereunder are transferable within the normal course of business of Licensee, as such operations are now or may hereafter be authorized, expanded or diminished. This shall permit Licensee to exercise such rights, or continue maintenance or other support services from Licensor notwithstanding a change in use location, or consolidation of Licensee's ongoing enterprise, or merger of governmental operations.

Concurrent Use License Where licensing of products is based upon "Concurrent Users", Vendor hereby grants license rights to the specified number of concurrent users actually executing the licensed programs, without reference to location or named users (hereinafter "Concurrent Users"). Upon written notice to Vendor, Licensee reserves the right, without penalty or termination of the existing license, to increase or diminish the number of Concurrent User licenses.

Archived Data The licenses granted hereunder shall permit Licensee to use and obtain copies of the Licensed Databases and related information in connection with archival backup. The Licensor shall be able to provide archived data to the licensee for an appropriate, non exorbitant fee as specified herein in a manner compatible with the licensee's technological capabilities.

No Subsequent, Unilateral Modification of License Terms Notwithstanding any other provision of any agreement which may be hereafter issued by Vendor, and irrespective of whether any such agreement has been proposed prior to or after the issuance of a purchase order for products licensed under this agreement, or the fact that such agreement may be affixed to or accompany databases upon delivery, the terms and conditions set forth herein shall supersede and govern licensing and delivery of all products and services hereunder.

Third Party Agreements Vendor may change the rates to certain databases, features and third party gateway charges in an amount equal to the increase from said third party, or make them excluded charges if Vendor is contractually bound or otherwise required to do so by a third party contributor of data to Vendor. Third party vendor contract price increases pursuant to this paragraph may be passed through to the Licensee provided that the charges have been documented by the Vendor. Such documentation shall be deemed shown upon OGS receipt of the following:

- c. Notice of said increase shall be furnished to the State at the address for the issuing officer at least thirty days prior to such change going into effect; and
- d. Vendor shall furnish from said third party vendor a written statement of an independent auditor verifying: 1) the date on which such price increase from third party shall be deemed effective as against Vendor; and 2) the percentage increase in the charge which the third party vendor is charging to Vendor as a gateway for vendor's services.

## **III. ACCESS TO PRODUCTS; EFFECTIVE DATE OF ACCESS:**

The Products will be made available to the Authorized Users and End Users in the following manner:

The Products will be stored at one or more locations in digital form accessible by telecommunications links between such locations and Authorized User's or End User's workstations. Access to the Products by Authorized Users shall be controlled by the use of IP addresses or other authentication to be identified.

The Contractor shall provide Authorized User and its End Users with access to the Products under this Agreement no later than ten (days) from the Service Commencement Date, provided that this Agreement has been fully executed.

Notwithstanding the term of the Agreement, individual Authorized Users may subscribe annually within the term of the Agreement, renewable by the Authorized User annually. By mutual agreement, the annual subscription period may be for a stated annual term for all Authorized Users, provided however; that additional End Users may be added any time during the contract period on a prorated basis.

#### **IV. AUTHORIZED USE OF PRODUCTS:**

**Authorized Uses.** End Users may make all use of the Products as is consistent with the Fair Use Provisions of United States and international copyright laws. In addition, the Products may be used as follows:

- (a) End Users may display, download, copy and/or print portions of the Products for use in research, education, or other non-commercial purposes.
- (b) End Users may use a reasonable portion of the Products in the preparation of educational materials.
- (c) End User may fulfill occasional requests from other institutions, a practice commonly called Interlibrary Loan. End User agrees to maintain records respecting End User's use of Materials in such Interlibrary Loan and to provide such records to the Contractor upon request.

#### **V. SPECIFIC RESTRICTIONS ON USE OF PRODUCTS:**

Authorized User shall not knowingly permit anyone other than End Users to use the Products.

Authorized User may not utilize the Products for commercial purposes, including but not limited to the sale of the Products, fee-for-service use of the Products, or bulk reproduction or distribution of the Products in any form; nor may Authorized User impose special charges on End Users for use of the Products beyond reasonable printing or administrative costs.

End Users may not disseminate or redistribute the Products via electronic bulletin boards, e-mail, intranets, the Internet or similar medium or service.

**APPENDIX D**

**Contractor's Executive Law, Article 15-A  
(M/WBE) Requirements**

## **CONTRACTOR'S REQUIREMENT UNDER ARTICLE 15-A**

In July of 1988, Article 15-A of the Executive Law was passed by the New York State Legislature. This legislation provides specific rules, regulations and procedures for minority and women-owned enterprise participation in certain State Contracts.

The Office of General Services (OGS) is required to implement the provisions of Article 15-A for all of its Contracts (1) in excess of \$25,000 for labor, services, supplies, equipment, materials, or any combination of the foregoing and (2) for Contracts in excess of \$100,000 for real property renovation and construction. For purposes of this Contract, OGS hereby establishes a goal of 0% for minority business enterprises (MBE) participation and 0% for women-owned business enterprises (WBE) participation.

In order to be awarded an OGS Contract, every bidder must comply with the requirements, rules and regulations outlined in Article 15-A.

### **POLICY AND PROVISIONS**

It is the policy of the State of New York to promote equality of economic opportunity for minority and women-owned business enterprises (M/WBEs) in State Contracting. In order to comply with the State's objectives, the Contractors shall use "good faith efforts" to provide meaningful participation by M/WBE Subcontractors or suppliers in the performance of this Contract.

For the purpose of determining a Contractor's good faith effort to comply with the requirements of Article 15-A or to be entitled to a waiver therefrom, the Contracting agency shall consider:

- (a) Whether the Contractor has advertised in general circulation media, trade association publications, minority-focus and women-focus media. In such event,
  - (i) whether or not certified minority or women-owned businesses which have been solicited by the Contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and
  - (ii) whether certified businesses which have been solicited by the Contractor have responded in a timely fashion to the Contractor's solicitations for timely competitive bid quotations prior to the Contracting agency's bid date; and
- (b) Whether there has been written notification to appropriate certified businesses that appear in the Directory of Certified M/WBE prepared pursuant to paragraph (f) of subdivision three of section three hundred eleven of this article; and
- (c) Whether the Contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified businesses.

- A. **GOALS** - The MBE and WBE participation goals as stated earlier are based on the availability of M/WBEs currently certified by New York State and geographically located to be able to perform the work in the region where the project is located. The total dollar value of the Contract, scope of work, the supplies and equipment necessary to perform the project, are also considerations used to determine the percentage goals.
- B. **UTILIZATION** - The Contractor may count as M/WBE participation: subcontracting part of the Contract to certified firms or purchasing supplies and equipment used to perform the terms and conditions of the Contract from certified firms.

Upon a showing by the Contractor of every good faith effort to achieve the goal for M/WBE participation in the work, the State will waive a Contractor's failure to achieve the goal M/WBE participation.

- C. **MINORITY AND WOMEN-OWNED BUSINESS OFFICER** - The Contractor shall designate an Affirmative Action officer and assign the officer the responsibility and authority to monitor the M/WBE program for this Contract. The OGS' Office of Minority and Women-owned Business Enterprises' staff is available to help in identifying certified M/WBEs.
- D. **REQUIRED REPORTS** - The Contractor is required to submit a Utilization Plan (BDC-328) to the NYS Office of General Services within five (5) days after the opening of bids for construction Contracts exceeding \$100,000 and 14 days after notification of award for commodity and service Contracts exceeding \$25,000. The Contractor must also submit the MBE/WBE Letter of Intent to Participate (BDC-49). The Letter MBE/WBE of Intent to Participate is a commitment by the Contractor and the subcontractor/supplier that the terms and conditions for M/WBE participation on this Contract are agreed to. Any modifications or changes to the agreed participation by certified M/WBEs, over the term of the Contract, must be reported on a revised Utilization Plan.
- E. **NONDISCRIMINATION** - The Contractor agrees not to discriminate on the basis of race, creed, color, national origin, gender, age, disability, or marital status, in any respect, against any potential subcontractor, supplier, other company, firm, or enterprise in any manner relating to the performance of this Contract.

### **POST AWARD**

The Contractor must submit to the Office of Minority and Women-owned Business Enterprises after notification of award, the following forms, by the 10<sup>th</sup> day of each month:

1. (BDC-58) Cumulative Monthly Payment Statements
2. (BDC-25) Monthly Affirmation of Income Payments

All questions regarding compliance to Article 15-A requirements or copies of the forms should be addressed to:

New York State Office of General Services  
Office of Minority and Women-owned Business Enterprises  
35<sup>th</sup> Floor, Room 3580  
Corning Tower Building  
Empire State Plaza  
Albany, NY 12242

The telephone numbers and addresses for New York State Department of Economic Development are as follows:

New York State Department of Economic Development  
633 Third Avenue  
New York, NY 10017

Telephone: (212) 803-2414

New York State Department of Economic Development  
Division of Minority and Women's Business Development  
30 South Pearl Street  
Albany, New York 12245  
Telephone: (518) 292-5250

**APPENDIX E**

**CONTRACT UPDATE FORM**



STATE OF NEW YORK  
 EXECUTIVE DEPARTMENT - OFFICE OF GENERAL SERVICES  
 NEW YORK STATE PROCUREMENT  
 Corning Tower – 37<sup>th</sup> Floor  
 Empire State Plaza  
 Albany, New York 12242

<b>CONTRACT UPDATE FORM</b>	
<b>OGS CONTRACT NO.:</b> _____	<b>DATE OF SUBMISSION:</b> _____
<b>CONTRACT PERIOD:</b> From: _____ To: _____	<b>VENDOR CONTACT:</b> NAME: _____ PHONE NO: _____ FAX NO.: _____ E-MAIL: _____
<b>GROUP NO. &amp; DESCRIPTION:</b> _____ _____	
<b>NOTE: Submission of this FORM does not constitute acceptance by the State of New York until approved by the appropriate New York State representative(s).</b>	

**INSTRUCTIONS:**

1. **This form is to be used for all contract updates. The form is to be completed in triplicate and submitted to the OGS New York State Procurement for final approval. Vendors shall complete, sign, and notarize where indicated, and attach this form to a cover letter written on standard company letterhead. Any submission that is not complete or signed in triplicate will be rejected.**
2. *Contractor may be required to submit the Product and price information for the update in an Excel spreadsheet format in hard copy and on a floppy disk and/or electronically via e-mail to the OGS Purchasing Officer.*
3. *To expedite the processing of updates that qualify as Auto Adds, do not combine Auto Adds with Regular or Special Adds. **If more than one type of update is being submitted, they should be submitted as totally separate requests.***
4. *The list must be dated and the format should be consistent with the format of the price list(s) included in the Pricing Appendix of the Contract.*
5. *The contract update must be accompanied by either the GSA Price List and revised NYS Net Price List incorporating all changes or the US Commercial Price List and revised NYS Net Price List incorporating all changes, whichever is applicable.*

**COMPLETE STATEMENTS 1 THROUGH 8 BELOW:**

1. This request is an: <input type="checkbox"/> Auto Add <input type="checkbox"/> Regular Add <input type="checkbox"/> Special Add See contract for an explanation of these terms.	2. The intent of this submittal is to: <input type="checkbox"/> Add new products <input type="checkbox"/> Delete products <input type="checkbox"/> Increase pricing <input type="checkbox"/> Reduce pricing <input type="checkbox"/> Amend VAR list
3. All terms and conditions of the contract shall apply to this request. <input type="checkbox"/> Agree <input type="checkbox"/> Disagree	4. All discounts as agreed to in the contract shall apply. <input type="checkbox"/> Agree <input type="checkbox"/> Disagree

<p>5. All discounts are:                    _____ GSA                    _____ Most Favored Nation*</p> <p>*Prices offered are the lowest offered to any similarly situated entity.</p>	<p>6. Attached documentation includes:                    _____ Current approved GSA (labeled "For information only")                    _____ Current commercial price list (labeled "For information only")                    _____ Revised NYS Net Price List</p>
<p>7. If other than an auto-ad, describe the Nature and Purpose of the update:  _____</p>	
<p>8. For a regular add, please explain how pricing has been restructured to customers, and/or identify and describe new Products or services, which fall into a new group or category that did not exist at the time of approval of the Contract by the New York State Comptroller. If not applicable, state NA:  _____</p>	

**The following CORPORATE ACKNOWLEDGEMENT statement is to be included in each of the three original forms. The request must be signed by an individual given the authority to perform this action by the corporation's board of directors and the signature must be notarized.**

\_\_\_\_\_  
Signature of Authorized Vendor Representative:

<b><u>CORPORATE ACKNOWLEDGMENT</u></b>	
STATE OF _____ } : COUNTY OF _____ }	ss.: 
On the _____ day of _____ in the year 20____, before me personally came: _____, to me known, who, being by me duly sworn, did depose and say that he/she/they reside(s) in _____; that he/she/they is (are) _____ (the President or other officer or director or attorney in fact duly appointed) of _____, the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by authority of the board of directors of said corporation.  _____	
<b>Signature of Notary Public</b>	

<b>FOR STATE USE ONLY</b>	
<p style="text-align: center;"><b><u>OGS APPROVAL:</u></b></p> <p><b>Approved _____ Approved as amended _____ Disapproved _____</b></p> <p>Name: _____</p> <p>Title: _____</p> <p>Date _____</p>	<p style="text-align: center;"><b><u>OSC APPROVAL:</u></b></p> <p><b>Approved _____ Disapproved _____</b></p> <p>Name: _____</p> <p>Title: _____</p> <p>Date _____</p>

**APPENDIX F**

**CONTRACTOR'S REQUIRED SUBMISSIONS**

**SUBMISSION #1**  
**MANDATORY CONTRACTOR QUESTIONNAIRE**  
**[CONTRACTOR MUST ANSWER ALL QUESTIONS]**

Page 1 of 3

1. Are you a New York State resident business?	Yes _____	No <u>X</u> _____
2. Total number of people employed by your firm:	<b>939 including International employees</b>	
3. Total number of people employed by your firm in New York State:	_____ <b>7</b> _____	
4. Is your company independently owned and operated?	Yes <u>X</u> _____	No _____
5. Place of manufacture or development of Product(s) offered (Please indicate "Yes" or "No" for A, B or C): A. All NYS manufacture/development? <u>OR</u> B. All manufactured/developed outside NYS? <u>OR</u> C. Manufactured/developed in NYS and outside NYS?	Yes _____	No <u>X</u> _____
	Yes <u>X</u> _____	No _____
	Yes _____	No <u>X</u> _____
6. Is your firm at least 51% owned and controlled by women, or 51% owned and controlled by minority group members, i.e., Black Hispanic, Asian, Pacific Islander, American Indian, Alaskan Native?  If yes, _____ <b>Minority Owned</b> _____ <b>Women Owned</b>  If yes, have you been certified or registered? _____ <b>Yes</b> _____ <b>No</b>  If yes, List certification or registration authority: _____ _____	Yes _____	No <u>X</u> _____
7. Do any of the Products offered herein incorporate recycled materials?	Yes _____	No _____ <b>N/A</b> _____
8. Do any of the Products offered herein contain remanufactured components?	Yes _____	No _____ <b>N/A</b> _____
9. Are any of the Products offered herein Energy Star Compliant?  If yes, which Products? _____ _____	Yes _____	No _____ <b>N/A</b> _____

Continued on next page...

<b>10. CONTRACTOR DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS</b> Pursuant to Procurement Lobbying Law (SFL §139-j)		<b>Yes</b> _____	<b>No</b> _____
a. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?		<b>Yes</b> _____	<b>No</b> <u>X</u> _____
If yes, please answer the following question:			
b. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?		<b>Yes</b> _____	<b>No</b> _____
c. If yes, was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?		<b>Yes</b> _____	<b>No</b> _____
If yes, please provide details regarding the finding of non-responsibility:			
Governmental Entity:		_____	
Date of Finding of Non-responsibility:		_____	
Basis of Finding of Non-Responsibility: (add additional pages if necessary)		_____ _____ _____ _____ _____ _____	
d. Has any governmental agency terminated or withheld a procurement contract with the above-named individual or entity due to the intentional provision of false or incomplete information?		<b>Yes</b> _____	<b>No</b> <u>X</u> _____
If yes, please provide details:			
Governmental Entity:		_____	
Date of Termination or Withholding of Contract:		_____	
Basis of Termination or Withholding: (add additional pages if necessary)		_____ _____ _____ _____	
<b>Signature:</b>		_____	
<b>Printed Name:</b>		<u>Gary Balentine – Vice President of Inside Sales</u>	



**Submission # 2**  
**Contractor Information**

**Contractor Information (for Ordering and Contract Administration Purposes)**

<b>1. CONTRACTOR/COMPANY INFORMATION</b>	
<b>Company Name:</b>	EBSCO Industries, Inc.
<b>Address:</b> (From first page of Contract)	10 Estes Street Ipswich, MA 01938
<b>FEDERAL ID #:</b>	63-6014186
<b>Source Code Escrow Agent Name:</b>	Not Applicable
<b>Address:</b>	
<b>Phone Number:</b>	

<b>2. CENTRALIZED CONTRACT</b>	
<b>Contract Administrator Name:</b>	Ed Roche
<b>Title:</b>	Senior Director of Sales
<b>Mailing Address:</b>	10 Estes Street Ipswich, MA 01938
<b>Telephone Number:</b>	800-653-2726 Ext. 2569
<b>E-mail:</b>	eroche@ebsohost.com
<b>FAX:</b>	978-356-6565

<b>3. SALES/BILLING</b>	
<b>Contact Name:</b>	Ed Roche
<b>Title:</b>	Senior Director of Sales
<b>Address:</b>	10 Estes St. Ipswich, MA 01938
<b>Telephone Number:</b>	800-653-2726 Ext. 2569
<b>E-mail:</b>	eroche@ebsohost.com
<b>FAX:</b>	978-356-6565

**Submission # 3**

**NYS Contract Net Price List**

(NYS Net Prices For: On-line Database Access, Related Electronic  
Products, Consulting & Training Services)

(to be attached by Contractor)

**Pricing is Based On:**

- US Commercial List, Dated July 17, 2007
- GSA Supply Schedule Number \_\_\_\_\_.  
Dated \_\_\_\_\_
- Other: \_\_\_\_\_

**Submission # 4**

**Consulting & Training Services**

(Description of Services, Course Offerings, & Pricing)

(to be attached by Contractor)

<b><u>SPECIFICATION – Description of Database</u></b> Describe what types of databases are available and elaborate on whether these databases are citation, abstract, full text, image, multimedia, etc.	MEET (Yes/No)	ANTICIPATED ENHANCEMENT (DATE)
<p><b><u>RESPONSE</u></b></p> <p><i>Academic Search™ Complete</i> contains:</p> <p>9,332            Abstracted and Indexed Journals  5,341            Full Text Journals  8,108            Peer-Reviewed, Abstracted and Indexed Journals  4,479            Peer-Reviewed, Full Text Journals</p> <p><i>Academic Search™ Elite</i> contains:</p> <p>3,491            Abstracted and Indexed Journals  2,010            Full Text Journals  2,721            Peer-Reviewed, Abstracted and Indexed Journals  1,554            Peer-Reviewed, Full Text Journals</p> <p><i>Academic Search™ Premier</i> contains:</p> <p>8,224            Abstracted and Indexed Journals  4,486            Full Text Journals  7,132            Peer-Reviewed, Abstracted and Indexed Journals  3,718            Peer-Reviewed, Full Text Journals</p> <p><i>Advanced Placement Source</i> contains:</p> <p>6,100+            Full Text Journals  200,000+            Photos, Maps &amp; Flags</p> <p><i>Book Collection: Nonfiction™</i> contains informative abstracts and searchable full text for more than 3,800 popular nonfiction books.</p> <p><i>Business Source® Complete</i> contains:</p> <p>3,763            Abstracted and Indexed Journals  2,859            Full Text Journals  2,054            Peer-Reviewed, Abstracted and Indexed Journals  1,392            Peer-Reviewed, Full Text Journals  10,120            Full Text Company Profiles  1,441            Full Text Country Economic Reports  17,491            Full Text Industry Reports  2,249            Full Text Market Research Reports  2,493            Full Text SWOT Analyses  601            Full Text Books/Monographs</p> <p><i>Business Source® Elite</i> contains:</p> <p>1778            Abstracted and Indexed Journals  1062            Full Text Journals</p>	Y	Ongoing

941	Peer-Reviewed, Abstracted and Indexed Journals		
479	Peer-Reviewed, Full Text Journals		
10,120	Full Text Company Profiles		
<i>Business Source® Premier</i> contains:			
3,266	Abstracted and Indexed Journals		
2,309	Full Text Journals		
1,825	Peer-Reviewed, Abstracted and Indexed Journals		
1,115	Peer-Reviewed, Full Text Journals		
10,120	Full Text Company Profiles		
1,403	Full Text Country Economic Reports		
5,028	Full Text Industry Reports		
426	Full Text Market Research Reports		
2,493	Full Text SWOT Analyses		
140	Full Text Books/Monographs		
<i>CINAHL® Plus with Full Text</i> contains:			
622	Full Text Journals		
218	Full Text Books/Monographs		
135	Full Text Evidence-Based Care Sheets		
169	Full Text Quick Lessons		
115	Full Text CEUs		
360	Full Text Research Instruments Records		
<i>Communication &amp; Mass Media Complete™</i> contains:			
301	Full Text Journals		
3,450	Full Text Conference Papers		
<i>Computer Source™</i> contains:			
458	Abstracted and Indexed Journals		
302	Full Text Journals		
<i>ERIC®</i> contains:			
1,194,000+	Records		
100,000+	Links to Full Text Documents		
<i>Fuente Academica™</i> contains:			
390	Abstracted and Indexed Journals		
388	Full Text Journals		
<i>Health Source®: Consumer Edition</i> contains:			
130+	Full Text Consumer Health Magazines		
1,000+	Health-Related Pamphlets		
130	Full Text Health Reference Books		
4,500+	Clinical Reference Systems reports (in English and Spanish)		
1,100	Drug Monographs		
2,700	Patient Education Fact Sheets		
<i>Health Source®: Nursing/Academic Edition</i> contains:			

822	Abstracted and Indexed Journals		
542	Full Text Journals		
441	Peer-Reviewed, Full Text Journals		
<i>History Reference Center</i> <sup>®</sup> contains:			
2,000+	Full Text Reference Books, Encyclopedias & Non-Fiction Books		
130	Full Text History Periodicals		
59,640	Historical Documents		
50,000+	Biographies of Historical Figures		
110,200	Historical Photos and Maps		
80+	Hours of Historical Video		
<i>Humanities International Complete</i> <sup>™</sup> contains:			
670	Full Text Journals		
124	Full Text Books/Monographs		
<i>The Legal Collection</i> <sup>™</sup> contains:			
286	Abstracted and Indexed Journals		
260	Full Text Journals		
<i>Literary Reference Center</i> <sup>™</sup> contains:			
27,500	Full Text Plot Summaries, Synopses, & Work Overviews		
Nearly 10,000	Full Text Articles/Essays of Literary Criticism		
140,500	Full Text Author Biographies		
350	Full Text Literary Journals		
535,000	Full Text Book Reviews		
54,000	Full Text Classic & Contemporary Poems		
14,500	Full Text Classic & Contemporary Short Stories		
4,000	Full Text Author Interviews		
<i>MagillOnHistory</i> <sup>™</sup> contains:			
10,000	Records		
1,800+	Historical Images, Charts, Graphs and Maps		
13,000+	Names (Index)		
4,000+	Biographical Essays		
<i>MagillOnLiterature Plus</i> <sup>™</sup> contains:			
35,000	Critical Analyses		
6,500	Biographical Records		
1,000+	Images		
1,310	Literary Terms (Glossary)		
395	Overview Essays		
<i>MAS Online</i> contains:			
230+	Abstracted and Indexed Periodicals		
150+	Full Text Periodicals		
5,000	Full Text <i>Magill Book Reviews</i>		
350+	Full Text Pamphlets		
<i>MAS Online Plus</i> contains:			

300+ Abstracted and Indexed Periodicals  
250+ Full Text Periodicals  
5,000 Full Text *Magill Book Reviews*  
400+ Full Text Pamphlets  
35 Full Text Reference Books

*MAS Ultra - Public Library Edition* contains:

450+ Abstracted and Indexed Periodicals  
300+ Full Text Periodicals  
3,000 Charts, Tables & Graphs

*MAS Ultra™ -- School Edition* contains:

586 Abstracted and Indexed Periodicals  
501 Full Text Periodicals  
350+ Reference Books  
84,774 Full Text Biographies  
100,554 Full Text Primary Source Documents  
276,622 Photos, Maps & Flags

*MasterFILE™ Elite* contains:

2,171 Abstracted and Indexed Journals  
1,051 Full Text Journals  
686 Peer-Reviewed, Abstracted and Indexed Journals  
313 Peer-Reviewed, Full Text Journals  
51 Reference Books  
84,774 Full Text Biographies  
100,554 Full Text Primary Source Documents  
276,622 Photos, Maps & Flags

*MasterFILE™ Premier* contains:

2,618 Abstracted and Indexed Journals  
1,741 Full Text Journals  
873 Peer-Reviewed, Abstracted and Indexed Journals  
459 Peer-Reviewed, Full Text Journals  
450+ Reference Books  
85,639 Full Text Biographies  
104,481 Full Text Primary Source Documents  
276,622 Photos, Maps & Flags

*MasterFILE™ Select* contains:

2,078 Abstracted and Indexed Journals  
706 Full Text Journals  
683 Peer-Reviewed, Abstracted and Indexed Journals  
199 Peer-Reviewed, Full Text Journals  
35 Reference Books  
84,774 Full Text Biographies  
100,554 Full Text Primary Source Documents  
276,622 Photos, Maps & Flags

*MEDLINE®* uses MeSH (Medical Subject Headings) indexing with tree, tree hierarchy, subheadings and explosion capabilities to search citations from over 4,800 current biomedical journals. Included are citations from *Index Medicus*,

*International Nursing Index, Index to Dental Literature, HISTLINE, SPACELINE, PREMEDLINE® , AIDSLINE® , BIOETHICSLINE® , and HealthSTAR® .*

*MEDLINE® with Full Text* contains:

1,204 Full Text Education Journals  
1,183 Journals with Cover-to-Cover Indexing in *MEDLINE*

The *Middle Online Package™* contains:

142 Full Text Middle School Magazines  
518 Full Text Education Journals  
84,774 Full Text Biographies  
28 Full Text National (U.S.) & International Newspapers  
260+ Full Text Regional (U.S.) Newspapers  
120,000+ Full Text Television & Radio News Transcripts  
100,554 Full Text Primary Source Documents  
276,622 Photos, Maps & Flags  
130+ Full Text Consumer Health Magazines  
1,000+ Health-Related Pamphlets  
130 Full Text Health Reference Books  
4,500+ Clinical Reference Systems reports (in English and Spanish)  
1,100 Drug Monographs  
2,700 Patient Education Fact Sheets

*Middle Search® Plus* contains :

171 Abstracted and Indexed Periodicals  
142 Full Text Periodicals  
84,774 Full Text Biographies  
100,554 Full Text Primary Source Documents  
276,622 Photos, Maps & Flags

*Newspaper Source™* contains:

28 Full Text National (U.S.) & International Newspapers  
260+ Full Text Regional (U.S.) Newspapers  
120,000+ Full Text Television & Radio News Transcripts

*NoveList®* contains:

- Over 147,000 Fiction Titles
- Over 36,000 Subject Headings
- 110,000 Annotations
- 100,000 Full-Text Searchable Reviews
- Over 225 Author Read-alikes
- Over 300 Book Discussion Guides
- Over 300 Annotated Thematic Bibliographies
- Over 500 Genre- and Theme-Based Lists
- Over 350 different award lists (Best Fiction)
- Over 500 BookTalks

*NoveList® K-8* contains:

- Over 55,000 Fiction Titles
- Over 36,000 Subject Headings
- Over 47,000 Annotations

- Over 50,000 Full-Text Searchable Reviews
- Over 200 Annotated Thematic Bibliographies
- Over 1,100 Genre- and Theme-Based Lists
- Over 850 different award lists (Best Fiction)
- Over 500 BookTalks (Children's and Young Adult)
- Over 100 Picture Book Extenders

*Online Reader*<sup>®</sup> is an interdisciplinary database of expository reading content designed to build students' reading comprehension skills across content areas. Its direct-assign format allows teachers to choose from high interest, nonfiction magazine articles and assign them to students according to individual reading needs. Each *Online Reader* article has a reading comprehension test that is automatically graded and question types are similar to those found on standardized tests.

*Points of View Reference Center*<sup>™</sup> contains the *Video Encyclopedia of the 20th Century*. In addition, this database also contains:

250+	Full Text Magazines
150+	Full Text Newspapers
1,150+	Primary Source Documents
800	Main Essays

*Primary Search*<sup>®</sup> contains:

88	Abstracted and Indexed Periodicals
68	Full Text Periodicals
84,774	Full Text Biographies
100,554	Full Text Primary Source Documents
276,622	Photos, Maps & Flags

The *Primary Online Package*<sup>™</sup> contains:

68	Full Text Elementary School Magazines
518	Full Text Education Journals
84,774	Full Text Biographies
28	Full Text National (U.S.) & International Newspapers
260+	Full Text Regional (U.S.) Newspapers
120,000+	Full Text Television & Radio News Transcripts
100,554	Full Text Primary Source Documents
276,622	Photos, Maps & Flags

*Professional Development Collection*<sup>™</sup> contains:

722	Abstracted and Indexed Journals
518	Full Text Journals
510	Peer-Reviewed, Abstracted and Indexed Journals
347	Peer-Reviewed, Full Text Journals

*Psychology & Behavioral Sciences Collection*<sup>™</sup> contains:

566	Abstracted and Indexed Journals
566	Full Text Journals
547	Peer-Reviewed, Abstracted and Indexed Journals
547	Peer-Reviewed, Full Text Journals

*Religion & Philosophy Collection*<sup>™</sup> contains:

292	Abstracted and Indexed Journals
292	Full Text Journals
260	Peer-Reviewed, Abstracted and Indexed Journals
260	Peer-Reviewed, Full Text Journals

*The Serials Directory*<sup>™</sup> contains nearly 212,000 U.S. and international titles, including newspapers; data from nearly 108,235 publishers worldwide.

*TOPICsearch* contains:

105,000+	Full Text Articles
1,622	Full Text Sources

The *Ultra Online Package*<sup>™</sup> contains:

501	Full Text High School Magazines
350+	Reference Books
518	Full Text Education Journals
84,774	Full Text Biographies
28	Full Text National (U.S.) & International Newspapers
260+	Full Text Regional (U.S.) Newspapers
120,000+	Full Text Television & Radio News Transcripts
100,554	Full Text Primary Source Documents
276,622	Photos, Maps & Flags
130+	Full Text Consumer Health Magazines
1,000+	Health-Related Pamphlets
130	Full Text Health Reference Books
4,500+	Clinical Reference Systems reports (in English and Spanish)
1,100	Drug Monographs
2,700	Patient Education Fact Sheets

*Vocational & Career Collection*<sup>™</sup> contains:

652	Full Text Journals
387	Full Text Books/Monographs

<p><b><u>SPECIFICATION – Description of Database</u></b>  Describe the subject categories covered by the databases including but not necessarily limited to the following subject categories: general, business, social sciences, health, education, science, technology and law.</p>	<p>MEET (Y/N)</p>	<p>ANTICIPATED ENHANCEMENT (DATE)</p>
<p><b><u>RESPONSE</u></b>  <b><i>Academic Search™ Complete</i></b>  <i>Academic Search™ Complete</i> is the world's most valuable and comprehensive scholarly, multi-disciplinary full-text database, with more than 5,300 full-text periodicals, including nearly 4,500 peer-reviewed journals. In addition to full text, this database offers indexing and abstracts for more than 9,300 journals and a total of 9,810 publications including monographs, reports, conference proceedings, etc. This scholarly collection offers unmatched full text coverage of information in many areas of academic study including: archaeology, area studies, astronomy, biology, chemistry, civil engineering, electrical engineering, ethnic &amp; multicultural studies, food science &amp; technology, general science, geography, geology, law, mathematics, mechanical engineering, music, physics, psychology, religion &amp; theology, women's studies, and other fields. <i>Academic Search Complete</i> offers critical information from many sources unique to this massive collection. The database features PDF content going back as far as 1865, with the majority of full text titles in native (searchable) PDF format. Searchable cited references are provided for nearly 1,000 journals.</p> <p><b><i>Academic Search™ Elite</i></b>  Academic institutions worldwide depend on this database as their core resource of scholarly information. <i>Academic Search™ Elite</i> contains full text for more than 2,000 journals. More than 100 journals have PDF images back to 1985. The database includes PDF images for the great majority of journals; many of these PDFs are native (searchable) or scanned-in-color.</p> <p><b><i>Academic Search™ Premier</i></b>  By far the world's most valuable and most numerous collection of active full text peer-reviewed journals, <i>Academic Search™ Premier</i> contains indexing for more than 8,200 journals, with full text for nearly 4,500 of those titles. PDF backfiles to 1975 or further are available for well over one hundred journals, and searchable cited references are provided for 1,000 titles. <i>Academic Search Premier</i> contains unmatched full text coverage in biology, chemistry, engineering, physics, psychology, religion &amp; theology, etc.</p> <p><b><i>Advanced Placement Source</i></b>  <i>Advanced Placement Source</i> is designed to meet the extensive needs of high school students enrolled in various AP courses. It offers a world of knowledge for students who seek to achieve academic excellence. This database is designed to support students in multiple areas of study including mathematics; physics; chemistry; biology; computer science; human geography; psychology; economics &amp; statistics; government &amp; politics; environmental science; U.S., European &amp; world history; the arts and music. <i>Advanced Placement Source</i> contains more than 6,100 full text journals and over 200,000 photos, maps and flags.</p> <p><b><i>Book Collection: Nonfiction™</i></b>  <i>Book Collection: Nonfiction™</i> is a rich research database for school libraries. A</p>	<p>Y</p>	<p>Ongoing</p>

cross-curricular database, it provides content representing a wide spectrum of works, including popular series from top book publishers such as Allosaurus Publishers, Bess Press, Inc., Branden Publishing, Capstone Press, Compass Point Books, Fulcrum Publishing, Lerner Publishing Group, Mason Crest Publishers, Morgan Reynolds, Inc., Morning Glory Press, Oliver Press, Rourke Publishing, LLC and Stackpole Books. It contains informative abstracts and searchable full text for more than 3,800 popular nonfiction books. The database includes full text entries on core subject areas, as well as information on careers, health, sports, adventure, technology, life skills and more.

***Business Source® Complete***

This is the world's definitive scholarly business database, providing the leading collection of bibliographic and full text content. *Business Source® Complete* contains far more active, peer-reviewed, business related journals than any other database currently available. As part of the comprehensive coverage offered by this database, indexing and abstracts for the most important scholarly business journals back as far as 1886 are included. In addition to the searchable cited references provided for more than 1,200 journals, *Business Source Complete* contains detailed author profiles for the 20,000 most-cited authors in the database. Journal ranking studies reveal that *Business Source Complete* is the overwhelmingly superior database for full text journals in all disciplines of business, including marketing, management, MIS, POM, accounting, finance and economics. Additional full text, non-journal content includes financial data, books, monographs, major reference works, conference proceedings, case studies, investment research reports, industry reports, market research reports, country reports, company profiles, SWOT analyses and more.

*Regional Business News™* is a supplemental database for customers of *Business Source Complete*. With daily updates, *Regional Business News* provides comprehensive full text for regional business publications (including titles from Crain Communications). *Regional Business News* has full text for more than 50 sources.

***Business Source® Elite***

*Business Source® Elite* provides full text coverage of scholarly business, management and economics journals. This rich collection also includes publications covering topics such as accounting, banking, finance, international business, marketing, sales, etc. *Business Source Elite* offers full text for nearly 1,100 business publications and contains expanded PDF backfiles for 150 titles (back to 1985 or the first issue published for that journal). 10,000 substantial company profiles from Datamonitor are also included.

*Regional Business News™* is a supplemental database for customers of *Business Source Elite*. With daily updates, *Regional Business News* provides comprehensive full text for regional business publications (including titles from Crain Communications). *Regional Business News* has full text for more than 50 sources.

***Business Source® Premier***

This is the industry's most used business research database, providing the full text for more than 2,300 journals. *Business Source Premier* provides full text back to 1965, and searchable cited references back as far as 1998. Journal ranking studies reveal that *Business Source Premier* is superior to the competition in full text coverage in all disciplines of business, including marketing, management, MIS, POM, accounting, finance and economics. Additional full text, non-journal content includes market research reports,

industry reports, country reports, company profiles and SWOT analyses.

*Regional Business News*<sup>™</sup> is a supplemental database for customers of *Business Source Premier*. With daily updates, *Regional Business News* provides comprehensive full text for regional business publications (including titles from Crain Communications). *Regional Business News* has full text for more than 50 sources.

***CINAHL<sup>®</sup> Plus with Full Text***

*CINAHL<sup>®</sup> Plus with Full Text* is the world's most comprehensive nursing & allied health research database, providing full text for more than 620 journals indexed in *CINAHL<sup>®</sup>*. Of those, 305 are not found with full text in any version of *Academic Search<sup>™</sup>*, *Health Source<sup>®</sup>* or *Nursing & Allied Health Collection<sup>™</sup>*. This authoritative file contains full text for many of the most used journals in the *CINAHL* index - with no embargo. The database also provides full text for 218 books/monographs. With full text coverage dating back to 1937, *CINAHL Plus with Full Text* is the definitive research tool for all areas of nursing and allied health literature.

***Communication & Mass Media Complete<sup>™</sup> (CMMC)***

*Communication & Mass Media Complete<sup>™</sup>* provides the most robust, quality research solution in areas related to communication and mass media. *CMMC* incorporates the content of *CommSearch* (formerly produced by the National Communication Association) and *Mass Media Articles Index* (formerly produced by Penn State) along with numerous other journals in communication, mass media, and other closely-related fields of study to create a research and reference resource of unprecedented scope and depth encompassing the breadth of the communication discipline. *CMMC* offers cover-to-cover ("core") indexing and abstracts for more than 420 journals, and selected ("priority") coverage of nearly 200 more, for a combined coverage of more than 600 titles. Furthermore, this database includes full text for 301 journals. Many major journals have indexing, abstracts, PDFs and searchable cited references from their first issues to the present (dating as far back as 1915). *CMMC* contains a sophisticated Communication Thesaurus and comprehensive reference browsing (i.e. searchable cited references for peer-reviewed journals covered as "core"). In addition, *CMMC* features over 3,000 Author Profiles, providing biographical data and bibliographic information, and covering the most prolific, most cited, and most frequently searched for authors in the database. To further develop and enhance this database, EBSCO has established two working groups of expert advisors represented by leading librarians, bibliographers, and professionals in the areas of communication and mass media.

***Computer Source<sup>™</sup>***

This database contains more than 300 full text journals and magazines covering topics such as computer science, programming, artificial intelligence, cybernetics, information systems, robotics, and software. *Computer Source<sup>™</sup>* provides a balance of full text technical journals and full text consumer computer titles.

***ERIC<sup>®</sup>***

*ERIC*, the Educational Resource Information Center, provides access to education literature and resources. The database provides access to information from journals included in the *Current Index of Journals in Education* and *Resources in Education Index*. The database contains more than 1,194,000 records and links to more than 100,000 full-text documents from *ERIC*.

**Fuente Academica™**

*Fuente Academica™* provides PDF full text for nearly 400 scholarly publications covering areas of academic study. Content is provided in Spanish from respected publishers worldwide, including *Revista de Arquitectura, Estudios Sobre Educacion, Revista de Estudios Hispánicos, Comunicacion y Sociedad, Revista de Ciencia Política, Revista Historia*, and more.

**Health Source®: Consumer Edition**

This is the richest collection of consumer health information available to libraries worldwide. This resource provides access to more than 130 full text, consumer health magazines, including *American Fitness, Better Nutrition, Fit Pregnancy, Harvard Health Letter, HealthFacts, Men's Health, Muscle & Fitness, Prevention, Vegetarian Times*, and many others. This database also includes searchable full text for more than 1,000 health-related pamphlets and 130 health reference books, including books published by the People's Medical Society. Additionally, *Health Source®: Consumer Edition* contains more than 4,500 Clinical Reference Systems reports (in English and Spanish); *Clinical Pharmacology*, which provides access to 1,100 drug monograph entries and 2,700 patient education fact sheets; and *Merriam-Webster's Medical Desk Dictionary*. *Health Source: Consumer Edition* covers topics such as AIDS, cancer, diabetes, drugs & alcohol, aging, fitness, nutrition & dietetics, children's health, women's health, etc.

**Health Source®: Nursing/Academic Edition**

This resource provides nearly 550 scholarly full text journals focusing on many medical disciplines. Coverage of nursing and allied health is particularly strong, including full text from *Creative Nursing, Issues in Comprehensive Pediatric Nursing, Issues in Mental Health Nursing, Journal of Advanced Nursing, Journal of Child & Adolescent Psychiatric Nursing, Journal of Clinical Nursing, Journal of Community Health Nursing, Journal of Nursing Management, Nursing Ethics, Nursing Forum, Nursing Inquiry*, and many more. In addition, this database includes the *Clinical Pharmacology* database, providing access to up-to-date, concise and clinically relevant drug monographs for all U.S. prescription drugs, hard-to-find herbal and nutritional supplements, over-the-counter products and new drugs.

**History Reference Center®**

*History Reference Center®* is the world's most comprehensive full text history reference database designed for secondary schools. The database features full text for more than 2,000 reference books, encyclopedias and non-fiction books from leading history publishers, such as: Branden Publishing, Compass Point Books, Houghton Mifflin, Lerner Publishing Group, Mason Crest Publishers, Morgan Reynolds Inc., Oliver Press, Oxford University Press, Rourke Publishing LLC., Salem Press, Stackpole Books, Toucan Valley Publications, and more. The database also includes full text for 130 leading history periodicals including *America's Civil War, American Heritage, American Historical Review, American History, Archaeology, Aviation History, Beaver, British Heritage, Chinese America: History & Perspectives, Civil War Times, Foreign Affairs, German History, History, History Review, History Today* (back to January 1975), *History: Review of New Books, Kansas History, Journal of American History, Manitoba History, Military History, Naval History, North Carolina Historical Review, Virginia Magazine of History & Biography, Wild West, World War II* and more. Further, the database contains 59,640 historical documents; more than 50,000 biographies of historical figures; more than

110,200 historical photos and maps; and more than 80 hours of historical video.

***Humanities International Complete™ (HIC)***

*Humanities International Complete™* provides full text of hundreds of journals, books and other published sources from around the world. Produced by Whitston Publishing (an imprint of EBSCO Publishing), this database includes all data from *Humanities International Index* (more than 2,000 journals and 2 million records) plus unique full text content, much of which is not found in other databases. The database includes full text for 670 journals. *Humanities International Complete* is an invaluable resource for students, researchers, and educators interested in all aspects of the humanities, with worldwide content pertaining to literary, scholarly and creative thought. *Humanities International Complete* is an essential collection for libraries looking to provide comprehensive coverage of the humanities with full-text content.

***Legal Collection™***

Containing full text for more than 250 of the world's most respected, scholarly law journals, this database is an authoritative source for information on current issues, studies, thoughts and trends of the legal world. The *Legal Collection* offers information centered on the discipline of law and legal topics such as criminal justice, international law, federal law, organized crime, medical, labor & human resource law, ethics, the environment and much more. Full text contained in this database includes: *American Journal of Criminal Law*, *California Law Review* and many more.

***Literary Reference Center™***

*Literary Reference Center™* is a comprehensive database that provides users with a broad spectrum of information on thousands of authors and their works across literary disciplines and timeframes. It has been specifically designed for public libraries, secondary schools, junior/community colleges, and undergraduate research. *Literary Reference Center* is a full text database that combines information from major respected reference works, books, literary journals as well as original content from EBSCO Publishing. *Literary Reference Center* contains full text for 27,500 plot summaries, synopses and work overviews, nearly 100,000 articles/essays of literary criticism, 140,500 author biographies (including 20,000 in-depth bios), 350 literary journals, 535,000 book reviews, 54,000 classic and contemporary poems, 14,500 classic and contemporary short stories, 4,000 author interviews, 8,400 classic texts and much more. In addition, *Literary Reference Center* also includes Merriam Webster's *Encyclopedia of Literature*, *Continuum Encyclopedia of American Literature*, *Continuum Encyclopedia of British Literature*, *Continuum Encyclopedia of Children's Literature*, *The New Princeton Encyclopedia of Poetry and Poetics*, *Beacham's Research Guide to Biography and Criticism* (six volumes), *The Oxford Illustrated History of English Literature*, *The Literary Encyclopedia*, *The Columbia Companion to the 20th Century American Short Story*, all of *MagillOnLiterature Plus™*, and much more.

***MagillOnHistory™***

*MagillOnHistory™*, produced by Salem Press, combines content from their critically acclaimed history reference sets in a fully integrated single database. This database is comprised of approximately 10,000 records, more than 1,800 historical images, charts, graphs and maps, and an index of more than 13,000 names. In addition, this database includes more than 4,000 biographical essays which examine the lives of more than 3,800 historical figures. With essays on people, events, and cultures ranging as far back as 25,000 b.c.e., *MagillOnHistory* offers extensive coverage of the ancient world; American

History, including colonial and pre-colonial US and Canada; cultures and civilizations in Africa, Asia, the Middle East, Europe, the Americas and Oceania; In addition, *MagillOnHistory* provides intensive coverage of the twentieth century, with special focus on economics, science, human rights, the environment, and the arts.

***MagillOnLiterature Plus™***

*MagillOnLiterature Plus™*, produced by Salem Press, combines all the quality content of both *MagillOnLiterature* and *MagillOnAuthors* in a fully integrated and enhanced single database. This database is composed of approximately 35,000 critical analyses of individual works of literature, 6,500 biographical records, more than 1,000 images, and a glossary of 1,310 literary terms. *MagillOnLiterature Plus* contains editorially reviewed critical essays, brief plot summaries, extended character profiles, and detailed setting discussions covering works by more than 8,500 long and short fiction writers, poets, dramatists, essayists, and philosophers. The biographical essays reflect extended coverage of the 2,500 most studied authors and include up-to-date lists of each author's principal works and current secondary bibliographies. In addition, 395 comprehensive genre-driven overview essays provide details about important literary genres, time periods, and national literatures.

***MAS Online***

*MAS Online* provides full text from over 150 magazines covering general reference, health, science, and other areas. In addition to the full text, this database offers indexing and abstracts for more than 230 magazines. This database includes charts, tables and graphs converted to ASCII text; 5,000 full text *Magill Book Reviews*; nearly 400 health and science-related pamphlets in full text; coverage of the *CIA World Factbook* and *Essential Documents in American History*. Full text backfiles as well as indexing and abstract backfiles date as far back as 1985.

***MAS Online Plus***

*MAS Online Plus* provides full text from nearly 300 magazines covering general reference, health, science, and other areas. In addition to the full text, this database offers indexing and abstracts for nearly 350 magazines. This database includes charts, tables and graphs converted to ASCII text, 5,000 full text *Magill Book Reviews*, over 410 health and science-related pamphlets in full text, full text for 35 reference books, coverage of the *CIA World Factbook* and *Essential Documents in American History*. Full text backfiles as well as indexing and abstract backfiles date as far back as 1985.

***MAS Ultra - Public Library Edition***

*MAS Ultra - Public Library Edition* provides full text for nearly 350 periodicals covering general reference, health, science, and other areas. In addition to the full text, this database offers indexing and abstracts for nearly 500 periodicals. This database also includes over 3,000 charts, tables and graphs converted to ASCII text; and coverage of the *CIA World Factbook*. Examples of publications covered in *MAS Ultra - Public Library Edition* include: *Advertising Age*, *American Economist*, *American Family Physician*, *American Fitness*, *Black Enterprise*, *Business Week*, *Canadian Geographic*, *Christianity Today*, *Computerworld*, *Discover*, *Economist*, *Forbes*, *Foreign Affairs*, *Good Housekeeping*, *Guitar Player*, and many more. Full text backfiles go as far back as January of 1985, while indexing and abstract backfiles go as far back as January of 1984.

***MAS Ultra™ -- School Edition***

*MAS Ultra™ -- School Edition*, designed specifically for high school libraries, contains full text for more than 500 popular, high school magazines including *America's Civil War*, *American Heritage*, *American History*, *Archaeology*, *Astronomy*, *Bioscience*, *Careers & Colleges*, *Civil War Times*, *Congressional Digest*, *Discover*, *Economist*, *History Today*, *Nation*, *National Review*, *New Republic*, *New Scientist*, *Popular Science*, *Science News*, *Scientific American*, *Smithsonian*, *World War II*, etc. All full text articles are assigned a reading level indicator (Lexiles). Full text is also available for 84,774 biographies and 100,554 primary source documents. Additionally, *MAS Ultra – School Edition* contains more than 350 reference books (including the *Columbia Encyclopedia*, the *CIA World Fact Book* and *World Almanac & Book of Facts*), an Image Collection of 276,622 photos, maps & flags, color PDFs and expanded full text backfiles (back to 1975) for key magazines.

***MasterFILE™ Elite***

Designed specifically for public libraries, *MasterFILE™ Elite* provides full text coverage for more than 1,050 periodicals covering general reference, business, health, education, general science, multicultural issues and much more. This database also contains full text for 51 reference books and an Image Collection of 276,132 photos, maps and flags.

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*MasterFILE Premier* now offers PDF backfiles (as far back as 1975) for key publications including *American Libraries*, *Foreign Affairs*, *History Today*, *Judaism*, *Library Journal*, *National Review*, *Saturday Evening Post*, etc.

\* *Science News* is available in HTML back to 1975.

***MasterFILE™ Select***

Designed specifically for public libraries, *MasterFILE™ Select* provides full text coverage for more than 700 periodicals covering general reference, business, health, education, general science, multicultural issues and much more. This database also contains full text for 35 reference books and an Image Collection of 276,132 photos, maps and flags.

***MEDLINE®***

*MEDLINE* provides authoritative medical information on medicine, nursing, dentistry, veterinary medicine, the health care system, pre-clinical sciences, and much more. Created by the National Library of Medicine, *MEDLINE* uses MeSH (Medical Subject Headings) indexing with tree, tree hierarchy, subheadings and explosion capabilities to search citations from over 4,800 current biomedical journals. Included are citations from *Index Medicus*, *International Nursing Index*, *Index to Dental Literature*, *HISTLINE*, *SPACELINE*, *PREMEDLINE®*, *AIDSLINE®*, *BIOETHICSLINE®*, and *HealthSTAR®*.

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*MEDLINE® with Full Text* is the world's most comprehensive source of full text for medical journals, providing full text for more than 1,200 journals indexed in

**MEDLINE**<sup>®</sup>. Of those, more than 1,180 have cover-to-cover indexing in **MEDLINE**, and of those, nearly 400 are not found with full text in any version of **Academic Search**<sup>™</sup>, **Health Source**<sup>®</sup> or **Biomedical Reference Collection**<sup>™</sup>. This wide-ranging file contains full text for many of the most used journals in the **MEDLINE** index - with no embargo. With full-text coverage dating back to 1965, **MEDLINE with Full Text** is the definitive research tool for medical literature.

**Middle Online Package**<sup>™</sup>

Consisting of six databases, the **Middle Online Package**<sup>™</sup> offers the most complete collection of full text reference resources available for middle schools. This full text package contains databases designed not only for students, but also for educators. The **Middle Online Package** contains the following databases: **Middle Search**<sup>® Plus</sup>, **TOPICsearch**<sup>™</sup>, **Newspaper Source**<sup>™</sup>, **Health Source**<sup>®</sup>: **Consumer Edition**, **ERIC**<sup>®</sup>, and **Professional Development Collection**<sup>™</sup>.

*Middle Search Plus* contains full text for more than 140 popular, middle school magazines. All full text articles are assigned a reading level indicator (Lexiles). Full text is also available for thousands of biographies and historical essays. Additionally, *Middle Search Plus* contains primary source documents including *Essential Documents in American History*, reference books including the *Funk & Wagnall's New World Encyclopedia* and *American Heritage*<sup>®</sup> *Dictionary*, 4th Edition from Houghton Mifflin, the *Encyclopedia of Animals*<sup>™</sup>, and an Image Collection of 276,132 photos, maps and flags.

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**Health Source**<sup>®</sup>: **Consumer Edition** is the richest collection of consumer health information available to libraries worldwide. This resource provides access to more than 130 full text, consumer health magazines, including *American Fitness*, *Better Nutrition*, *Fit Pregnancy*, *Harvard Health Letter*, *HealthFacts*, *Men's Health*, *Muscle & Fitness*, *Prevention*, *Vegetarian Times*, and many others. This database also includes searchable full text for more than 1,000 health-related pamphlets and 130 health reference books, including books published by the People's Medical Society. Additionally, **Health Source**<sup>®</sup>: **Consumer Edition** contains more than 4,500 Clinical Reference Systems reports (in English and Spanish); *Clinical Pharmacology*, which provides access to 1,100 drug monograph entries and 2,700 patient education fact sheets; and *Merriam-Webster's Medical Desk Dictionary*. **Health Source: Consumer Edition** covers topics such as AIDS, cancer, diabetes, drugs & alcohol, aging, fitness, nutrition & dietetics, children's health, women's health, etc.

**Newspaper Source**<sup>™</sup> provides cover-to-cover full text for 28 national (U.S.) & international newspapers, including *The Christian Science Monitor*, *USA Today*, *The Washington Post*, *The Washington Times*, *The Times* (London), *Toronto Star*, etc. The database also contains selected full text for more than 260 regional (U.S.) newspapers, including *The Boston Globe*, *Chicago Tribune*, *Detroit Free Press*, *The Miami Herald*, *Daily News* (New York), *San Jose Mercury News*, etc. In addition, full text television & radio news transcripts are provided from *CBS News*, *CNN*, *CNN International*, *FOX News*, *NPR*, etc.

New York newspaper coverage includes full text articles from the business section of the *Bridge News* (New York), *The Buffalo News* (Buffalo), *Daily News* (New York), *Newsday* (Melville), *The Post-Star* (Glen Falls), *The Times Herald-Record* (Middletown), *Times Union* (Albany), and the *Watertown Daily Times* (Watertown).

*TOPICsearch*<sup>™</sup> is a current events database which allows researchers to explore social, political & economic issues, scientific discoveries and other popular topics discussed in today's classrooms including controversial opinions and viewpoints. *TOPICsearch* contains full text for over 105,000 articles from 1,622 diverse sources including international and regional newspapers, EBSCO's unparalleled collection of periodicals, biographies, public opinion polls, book reviews, pamphlets, and government information.

*ERIC*<sup>®</sup>, the Educational Resource Information Center, provides access to education literature and resources. The database provides access to information from journals included in the *Current Index of Journals in Education* and *Resources in Education Index*. The database contains more than 1,194,000 records and links to more than 100,000 full-text documents from *ERIC*.

*Professional Development Collection*<sup>™</sup> is the most comprehensive and most valuable collection of full text education journals in the world. *Professional Development Collection* includes full text for nearly 520 high quality education journals including *Booklist*, *Education*, *Education Digest*, *Education Week*, *Educational Leadership*, *Elementary School Journal*, *International Journal of Early Years Education*, *Journal of Education*, *Journal of Educational Research*, *Journal of Learning Disabilities*, *Phi Delta Kappan*, *Primary Educator*, *Reading Teacher*, *School Library Journal*, *Teaching PreK-8*, and many others.

All databases available in the *Middle Online Package* can be accessed via *Searchasaurus*<sup>™</sup>, *Kids Search*<sup>™</sup>, *Student Research Center* and/or EBSCOhost.

#### ***Middle Search*<sup>®</sup> Plus**

*Middle Search Plus* contains full text for more than 140 popular, middle school magazines. All full text articles are assigned a reading level indicator (Lexiles). Full text is also available for thousands of biographies and historical essays. Additionally, *Middle Search Plus* contains primary source documents including *Essential Documents in American History*, reference books including the *Funk & Wagnall's New World Encyclopedia* and *American Heritage*<sup>®</sup> *Dictionary*, 4th Edition from Houghton Mifflin, the *Encyclopedia of Animals*<sup>™</sup>, and an Image Collection of 276,132 photos, maps and flags.

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#### ***Newspaper Source*<sup>™</sup>**

*Newspaper Source* provides cover-to-cover full text for 28 national (U.S.) & international newspapers, including *The Christian Science Monitor*, *USA Today*, *The Washington Post*, *The Washington Times*, *The Times* (London), *Toronto Star*, etc. The database also contains selected full text for more than 260 regional (U.S.) newspapers, including *The Boston Globe*, *Chicago Tribune*, *Detroit Free Press*, *The Miami Herald*, *Daily News* (New York), *San Jose Mercury News*, etc. In addition, full text television & radio news transcripts are provided from

*CBS News, CNN, CNN International, FOX News, NPR, etc.*

New York newspaper coverage includes full text articles from the business section of the *Bridge News* (New York), *The Buffalo News* (Buffalo), *Daily News* (New York), *Newsday* (Melville), *The Post-Star* (Glen Falls), *The Times Herald-Record* (Middletown), *Times Union* (Albany), and the *Watertown Daily Times* (Watertown).

***NoveList***<sup>®</sup>

*NoveList* is an online readers' advisory service that helps librarians and readers find fiction books based on books they have read or topics in which they are interested. Readers can search for books by title, author or by simply describing a book they would like to read. Currently, the database includes more than 135,000 fiction titles for all ages with subject and keyword access; more than 36,000 individual subject headings (fiction); more than 100,000 full text reviews and descriptions from *Booklist*, *Library Journal*, *School Library Journal*, *Publishers Weekly*, and others. Searches can be limited by reading level, using Lexile scores to match students with books geared to their reading ability. *NoveList* helps libraries provide the best service possible to fiction readers. *NoveList* is more than a database; it is a set of resources and services designed to help libraries create, develop and support the library's services to its fiction readers. *NoveList* gives libraries access to the best subject indexing available for fiction, bibliographies and lists for the most popular authors, and a complete training program for library staff in the area of providing quality service for fiction readers.

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- Over 500 Genre- and Theme-Based Lists
- Over 350 different award lists (Best Fiction)
- Over 500 BookTalks

***NoveList***<sup>®</sup> **K-8**

If you are looking for ways to introduce both teachers and students to new books, and if you want to encourage independent reading and help students think more about why a particular story appeals to them -- you should look at *NoveList K-8*. *NoveList K-8* contains enhanced subject access for over 50,000 fiction titles aimed at the K-8 population. Full-text reviews from sources like *School Library Journal* and *Booklist* are available for many titles.

*NoveList K-8*, a fiction database, is designed with a bright, appealing layout, especially for elementary and middle schools. The Teacher Resources tab provides easy access to a wide range of curriculum-related material.

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- Over 47,000 Annotations
- Over 50,000 Full-Text Searchable Reviews

- Over 200 Annotated Thematic Bibliographies
- Over 1,100 Genre- and Theme-Based Lists
- Over 850 different award lists (Best Fiction)
- Over 500 BookTalks (Children's and Young Adult)
- Over 100 Picture Book Extenders

**Online Reader®**

*Online Reader®* is an interdisciplinary database of expository reading content designed to build students' reading comprehension skills across content areas. Its direct-assign format allows teachers to choose from high interest, nonfiction magazine articles and assign them to students according to individual reading needs. Lexile™ readability indicators are available for each article to facilitate selection. Each *Online Reader* article has a reading comprehension test that is automatically graded and question types are similar to those found on standardized tests. Online grade book and progress report features track student performance and achievement. Thematic teacher guides provide activities correlated to standards and explore expository writing and expression.

This online program:

- Fulfills the needs of heterogeneous classrooms
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- Provides students with practice for standardized tests
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- Offers thematic units and lesson plans for teachers
- Supplies empirical data that tracks student progress
- Fulfills specific Title I and IDEA mandates

*Online Reader* allows article assignments from EBSCO Publishing's core school databases. This allows teachers to assign articles from the databases for student research and additional reading practice.

**Points of View Reference Center™**

*Points of View Reference Center™* is a full-text database designed to provide students with a series of essays that present multiple sides of a current issue. The database provides 200 topics, each with an overview (objective background/description), point (argument) and counterpoint (opposing argument). Topics covered include: affirmative action, cloning, DNA profiling, HIV/AIDS status disclosure, immigration, Iraq, Israel & the Palestinians, Katrina and FEMA response, nuclear proliferation, separation of church and state, standardized testing, stem cell research, tax cuts, voting machines, and many more. *Points of View Reference Center* contains a balance of materials from all viewpoints, including 800 main essays, leading political magazines from both sides of the aisle, newspapers, radio & TV news transcripts, primary source documents and reference books. The database also offers guides to debate, developing arguments and writing position papers. Additionally, this database contains the *Video Encyclopedia of the 20<sup>th</sup> Century*, providing students with a searchable collection of some of the most important social, political, and cultural moments of the 20<sup>th</sup> century. *Points of View Reference Center* provides the basis from which students can realize and develop persuasive arguments and essays, better understand controversial issues and develop analytical thinking skills.

**Primary Search®**

*Primary Search*<sup>®</sup>, designed specifically for elementary school libraries, contains full text for nearly 70 popular, elementary school magazines. All full text articles are assigned a reading level indicator (Lexiles). Additionally, *Primary Search* includes the *Encyclopedia of Animals*<sup>™</sup>, and features *Funk & Wagnalls New World Encyclopedia*, providing students with easy-to-read encyclopedic entries written specifically for kids. The database also provides the *American Heritage*<sup>®</sup> *Children's Dictionary*, 3rd Edition from Houghton Mifflin, and an Image Collection.

*The American Heritage*<sup>®</sup> *Children's Dictionary* by the Editors of the *American Heritage*<sup>®</sup> *Dictionaries*, published by Houghton Mifflin Company. All rights reserved.

### ***Primary Online Package***<sup>™</sup>

Consisting of six collections, the *Primary Online Package*<sup>™</sup> offers the most complete collection of full text reference resources available for elementary schools. This full text package contains databases designed not only for students, but also for educators. The *Primary Online Package* contains the following databases: *Primary Search*<sup>®</sup>, *Newspaper Source*<sup>™</sup>, *Encyclopedia of Animals*<sup>™</sup>, *Image Collection*<sup>™</sup>, *ERIC*<sup>®</sup>, and *Professional Development Collection*<sup>™</sup>.

*Primary Search*, designed specifically for elementary school libraries, contains full text for nearly 70 popular, elementary school magazines. All full text articles are assigned a reading level indicator (Lexiles). Additionally, *Primary Search* includes the *Encyclopedia of Animals*<sup>™</sup>, and features *Funk & Wagnalls New World Encyclopedia*, providing students with easy-to-read encyclopedic entries written specifically for kids.

The database also provides the *American Heritage Children's Dictionary*, 3rd Edition from Houghton Mifflin, and an Image Collection. *The American Heritage Children's Dictionary* by the Editors of the *American Heritage Dictionaries*, published by Houghton Mifflin Company. All rights reserved.

*Encyclopedia of Animals*<sup>™</sup> is a database where students can discover the wild world of animals. This extensive database provides students with thousands of easy-to-read entries about mammals, birds, reptiles, amphibians, fish, dinosaurs and prehistoric animals. Each entry begins with a simple category breakdown of the animal including Kingdom, Class, Order, Genus & Species, and Geographical Locale as well as a detailed description. Many entries include colorful images.

*Image Collection*<sup>™</sup> provides students with instant access to 276,132 worldly images relating to people, natural science, places, history, maps and flags. Our images are organized by category to simplify the search process.

Please refer to the *Middle Online Package* for descriptions on other databases also listed in the *Primary Online Package* (*Newspaper Source*, *Professional Development Collection*, and *ERIC*).

All databases available in the *Primary Online Package* can be accessed via *Searchasaurus*, *Kids Search* and/or *EBSCOhost*.

### ***Professional Development Collection***<sup>™</sup>

This is the most comprehensive and most valuable collection of full text education journals in the world. *Professional Development Collection*<sup>™</sup>

includes full text for nearly 520 high quality education journals including: *Booklist, Education, Education Digest, Education Week, Educational Leadership, High School Journal, Journal of Education, Journal of Educational Research, Journal of Learning Disabilities, Phi Delta Kappan, Reading Teacher, School Library Journal* and many others.

***Psychology & Behavioral Sciences Collection™***

*Psychology & Behavioral Sciences Collection™* is a comprehensive database covering information concerning topics in emotional and behavioral characteristics, psychiatry & psychology, mental processes, anthropology, and observational & experimental methods. *Psychology & Behavioral Sciences Collection* can be searched independently, but also allows users to conveniently link to full text from citations within *PsycINFO®*. These citations, when viewed via *EBSCOhost*, have the ability to link to articles from more than 500 full text journals contained within *Psychology & Behavioral Sciences Collection*.

***Religion & Philosophy Collection™***

This database is a comprehensive database covering topics such as world religions, major denominations, biblical studies, religious history, epistemology, political philosophy, philosophy of language, moral philosophy and the history of philosophy. With nearly 300 full text journals and unparalleled coverage of the subject areas listed above, the *Religion & Philosophy Collection™* is an essential tool for researchers and students of theology and philosophical studies.

***The Serials Directory™***

This database provides access to the most up-to-date and accurate bibliographic information as well as current pricing structures for popular serials. This invaluable resource is made available via *EBSCOhost®*. It contains nearly 212,000 U.S. and international titles, including newspapers; data from nearly 108,235 publishers worldwide, including e-mail and Internet addresses; and Library of Congress and Dewey Decimal Classifications for every entry.

***TOPICsearch™***

This current events database allows researchers to explore social, political & economic issues, scientific discoveries and other popular topics discussed in today's classrooms including controversial opinions and viewpoints. *TOPICsearch* contains full text for over 105,000 articles from 1,622 diverse sources including international and regional newspapers, EBSCO's unparalleled collection of periodicals, biographies, public opinion polls, book reviews, pamphlets, and government information.

***Ultra Online Package™***

The *Ultra Online Package™* includes six popular school databases: *MAS Ultra™ -- School Edition, Health Source® Consumer Edition, Newspaper Source™, TOPICsearch™, ERIC®* and *Professional Development Collection™*.

*MAS Ultra™ -- School Edition*, designed specifically for high school libraries, contains full text for more than 500 popular, high school magazines including *America's Civil War, American Heritage, American History, Archaeology, Astronomy, Bioscience, Careers & Colleges, Civil War Times, Congressional Digest, Discover, Economist, History Today, Nation, National Review, New Republic, New Scientist, Popular Science, Science News, Scientific American, Smithsonian, World War II*, etc. All full text articles are assigned a reading level indicator (Lexiles). Full text is also available for 84,774 biographies and 100,554 primary source documents. Additionally, *MAS Ultra – School Edition* contains more than 350 reference

<p>books (including the <i>Columbia Encyclopedia</i>, the <i>CIA World Fact Book</i> and <i>World Almanac &amp; Book of Facts</i>), an Image Collection of 276,622 photos, maps &amp; flags, color PDFs and expanded full text backfiles (back to 1975) for key magazines.</p> <p>Please refer to the <i>Middle Online Package</i> for descriptions on other databases also listed in the <i>Ultra Online Package</i> (<i>TOPICsearch</i>, <i>Newspaper Source</i>, <i>Health Source: Consumer Edition</i>, <i>ERIC</i> and <i>Professional Development Collection</i>).</p> <p>All databases available in the <i>Ultra Online Package</i> can be accessed via <i>Student Research Center</i><sup>™</sup> and/or <i>EBSCOhost</i><sup>®</sup> interface.</p> <p><b><i>Vocational &amp; Career Collection</i></b><sup>™</sup>  <i>Vocational &amp; Career Collection</i> provides full text coverage for nearly 400 trade and industry related periodicals including <i>American Machinist</i>, <i>Modern Machine Shop</i>, <i>Pediatric Nursing</i>, <i>Wireless Week</i>, <i>Drug Store News</i>, <i>Video Business</i>, <i>Reeves Journal</i>, <i>Hotel &amp; Motel Management</i>, <i>Restaurant Business</i>, <i>Advertising Age</i>, and many more.</p>		
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<b><u>SPECIFICATION – Description of Database</u></b> Describe the years of coverage of the databases (e.g. from 1995 to the present). Provide a statement that describes the range of coverage currently available and the ongoing development of the databases including specific time related goals (e.g. databases dating back to 2000 under development with completion expected in 2008).	MEET (Y/N)	ANTICIPATED ENHANCEMENT (DATE)
<b><u>RESPONSE</u></b>  Full text coverage in <i>Academic Search Complete</i> dates as far back as 1887.  Full text coverage in <i>Academic Search Elite</i> dates as far back as 1904.  Full text coverage in <i>Academic Search Premier</i> dates as far back as 1904.  Full text coverage in <i>Advanced Placement Source</i> dates as far back as 1985.  <i>Book Collection: Nonfiction</i> is not a full text periodical database. It is a cross-curricular database containing abstracts and full text for more than 3,600 popular nonfiction books; however, it does contain full text content dating as far back as 1921.  Full text coverage in <i>Business Source Complete</i> dates as far back as 1886.  Full text coverage in <i>Business Source Elite</i> dates as far back as 1985.  Full text coverage in <i>Business Source Premier</i> dates as far back as 1911.  Full text coverage in <i>CINAHL Plus with Full Text</i> dates as far back as 1937.  Full text coverage in <i>Communication &amp; Mass Media Complete</i> dates as far back as 1915.  Full text coverage in <i>Computer Source</i> dates as far back as 1965.  <i>ERIC</i> is not a full text periodical database. It provides access to education literature and resources; however, it does contain content dating as far back as 1909.  Full text coverage in <i>Fuente Academica</i> dates as far back as 1922.  Full text coverage in <i>Health Source: Consumer Edition</i> dates as far back as 1985.  Full text coverage in <i>Health Source: Nursing/Academic Edition</i> dates as far back as 1958.  Full text coverage in <i>History Reference Center</i> dates as far back as 1922.  Full text coverage in <i>Legal Collection</i> dates as far back as 1904.  Full text coverage in <i>Literary Reference Center</i> dates as far back as the 1920s.  Full text coverage in <i>MasterFILE Elite</i> dates as far back as 1974.	Y	Ongoing

Full text coverage in *MasterFILE Premier* dates as far back as 1921.

Full text coverage in *MasterFILE Select* dates as far back as 1974.

*MagillOnHistory* providing information on people, events, and cultures ranging as far back as 25,000 b.c.e.

Full text coverage in *MAS Online* dates as far back as 1985.

Full text coverage in *MAS Online Plus* dates as far back as 1985.

Full text coverage in *MAS Ultra – Public Library Edition* dates as far back as 1985.

Full text coverage in *MAS Ultra – School Edition* dates as far back as 1901.

*MEDLINE* provides coverage dating back to the 1800s.

Full text coverage in *MEDLINE with Full Text* dates as far back as 1965.

Full text coverage in *Middle Search Plus* dates as far back as 1901.

Full text coverage in *Military & Government Collection* dates as far back as 1904.

Full text coverage in *Newspaper Source* dates as far back as 1995.

*NoveList* is not a full text periodical database. It is a readers' advisory service; however, it does contain full text content dating as far back as 1987.

*NoveList K-8* is not a full text periodical database. It is a readers' advisory service; however, it does contain full text content dating as far back as 1987.

Full text coverage in *Points of View Reference Center* dates as far back as 1900.

Full text coverage in *Psychology & Behavioral Sciences Collection* dates as far back as 1930.

Full text coverage in *Primary Search* dates as far back as 1990.

Full text coverage in *Professional Development Collection* dates as far back as 1930.

Full text coverage in *Regional Business News* dates as far back as 1990.

Full text coverage in *Religion & Philosophy Collection* dates as far back as 1911.

*The Serials Directory* contains up-to-date and accurate bibliographic information as well as current pricing structures for popular serials.

Full text coverage in *TOPICsearch* dates as far back as 1960.

Full text coverage in *Vocational & Career Collection* dates as far back as 1985.

<b><u>SPECIFICATION – Description of Database</u></b> Are the databases indexed? If so, describe indexing method.	MEET (Y/N)	ANTICIPATED ENHANCEMENT (DATE)
<p><b><u>RESPONSE</u></b>  <i>Method of Indexing:</i></p> <p>Please note that all indexing at EBSCO is based on rules created by the Library of Congress and the Anglo-American Cataloging rules. EBSCO's Comprehensive Subject Index is an expansion of the Library of Congress' Subject Authority headings. Using the Library of Congress' subject headings as a base, indexers at EBSCO are able to select, on average, five to eight headings that highlight the main point of the article being covered. Indexers are also able to create very specific headings by adding Library of Congress' free-floating subdivisions to the subject headings, being sure to follow specific instructions on their implementation.</p> <p>Every week the Library of Congress sends EBSCO an update to its 200,000+ headings. Every time EBSCO receives an LC addition, it is immediately added to the Comprehensive Subject Index so that all indexers will be able to select headings of current interest.</p> <p>All members of EBSCO's Abstracting &amp; Indexing Group receive training in Library of Congress indexing methods and strive toward consistency in our products. The group maintains numerous resources and tools that enable them to maintain this consistency. For example, current events are reviewed on a daily basis and are matched with appropriate headings. The listing of these headings is then forwarded to every abstractor that produces for EBSCO. By doing this, EBSCO is assuring that similar types of subject matter are all being indexed using the same headings.</p> <p>By being pro-active about the selection process, EBSCO has assured that its headings are consistent.</p> <p><i>Depth of Indexing:</i></p> <p>For EBSCO's proprietary databases, EBSCO provides cover-to-cover indexing and abstracts, regardless of article length or content, for all magazine or journal articles as well as cover-to-cover full text for all magazine or journal articles for which we have rights with the following exceptions:</p> <ul style="list-style-type: none"> <li>• Letters to the Editor: EBSCO only covers Letters to the Editor except for in some Children's magazines.</li> <li>• Advertisements: EBSCO only covers ads when creating a PDF (full-page) image of an article that may include an advertisement on that same page. EBSCO does not index or abstract advertisements, and does not offer them in our Compound (text + graphics) Documents.</li> <li>• Supplements: EBSCO only covers supplements when they are not</li> </ul>	Y	Ongoing

<p>sponsored or advertising supplements.</p> <ul style="list-style-type: none"> <li>• Images: For PDF titles, EBSCO covers the entire magazine or journal, including any advertisements that may appear (only if on a page that contains text for an article). In Compound Documents, EBSCO will process all images in the most popular and widely used magazines in our services. This includes charts, graphs, line art and drawings. EBSCO does not process images smaller than 1.5 inches per side. Some publications have no images processed due to contractual issues with the primary publisher.</li> <li>• Charts, Tables and Graphs: EBSCO processes the charts and graphs as part of the image policy mentioned above. EBSCO also provides ASCII versions of key charts, tables and graphs. This allows users to access information within the chart, table or graph via a keyword search. The ASCII presentation also allows users with non-graphic capabilities to access tabular data.</li> <li>• Newspapers and Newswires: Comprehensive full text is provided for specified newspapers. Selected full text and/or abstracts &amp; indexing, is provided for some other newspapers and newswires. With comprehensive or selected coverage, EBSCO does not cover sports scores, movie and television listings, or obituaries (unless greater than ¼ page).</li> </ul>		
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<b><u>SPECIFICATION – Description of Database</u></b> How frequently are the databases updated? Describe the procedures for updating databases.	<b>MEET (Y/N)</b>	<b>ANTICIPATED ENHANCEMENT (DATE)</b>
<b><u>RESPONSE</u></b>  <i>Academic Search Complete</i> is updated on a <i>daily</i> basis  <i>Academic Search Elite</i> is updated on a <i>daily</i> basis  <i>Academic Search Premier</i> is updated on a <i>daily</i> basis  <i>Advanced Placement Source</i> is updated on a <i>weekly</i> basis  <i>Book Collection: Nonfiction</i> is updated on a <i>monthly</i> basis  <i>Business Source Complete</i> is updated on a <i>daily</i> basis  <i>Business Source Elite</i> is updated on a <i>daily</i> basis  <i>Business Source Premier</i> is updated on a <i>daily</i> basis  <i>CINAHL Plus with Full Text</i> is updated on a <i>weekly</i> basis  <i>Communication &amp; Mass Media Complete</i> is updated on a <i>daily</i> basis  <i>Computer Source</i> is updated on a <i>daily</i> basis  <i>ERIC</i> is updated on a <i>monthly</i> basis  <i>Fuente Academica</i> is updated on a <i>weekly</i> basis.  <i>Health Source: Consumer Edition</i> is updated on a <i>daily</i> basis  <i>Health Source: Nursing/Academic Edition</i> is updated on a <i>daily</i> basis  <i>History Reference Center</i> is updated on a <i>monthly</i> basis  <i>Legal Collection</i> is updated on a <i>daily</i> basis  <i>Literary Reference Center</i> is updated on a <i>weekly</i> basis  <i>MagillOnHistory</i> is updated on a <i>quarterly</i> basis  <i>MagillOnLiterature Plus</i> is updated on a <i>quarterly</i> basis  <i>MasterFILE Elite</i> is updated on a <i>daily</i> basis  <i>MasterFILE Premier</i> is updated on a <i>daily</i> basis  <i>MasterFILE Select</i> is updated on a <i>twice-weekly</i> basis	Y	<p>EBSCO receives titles promptly as the publishers release them. Some are received in a pre-publication release and others on schedules determined by the publishers. It takes from one to seven days to prepare data to be loaded, but prepared data is loaded every day. Generally, our data is as current as the printed copy for the most common and popular titles. Some periodicals are actually available ahead of the date of publication. Other, more scholarly titles may take a few days longer, and in some cases the publisher levies an embargo period on the journal, therefore a forced delay applies to the full text. In those cases, indexing and abstracting coverage remains current. There is no situation where EBSCO embargoes a journal that is not embargoed by other aggregators - unless it is not available at all from those aggregators. Please note that most of our periodicals have no embargo period. For peer-reviewed, scholarly journals, embargoes are not uncommon, and our title lists reflect the length of embargo next to any journal that has one.</p> <p>EBSCO is proud of the fact that our databases have more full text peer-reviewed journals without embargo than competing databases. However, because we have so many full text scholarly journals in general, we also have more journals with an embargo period. Additionally, please note that all embargoed journals have current abstracts, which can link to the current full text via the e-journal (if the library subscribes to the e-journal). Three items that may affect timely presentation as a result of publisher moratoriums include:</p> <p><i>Publisher Data</i> - publishers neglecting to send print and/or electronic copies of their issues on time. This is fairly rare.</p> <p><i>Publisher Exclusions</i> - publishers sending requests for removal or restriction of articles based on</p>

<p><i>MAS Online</i> is updated on a <i>daily</i> basis</p> <p><i>MAS Online Plus</i> is updated on a <i>daily</i> basis</p> <p><i>MAS Ultra: Public Library Edition</i> is updated on a <i>weekly</i> basis</p> <p><i>MAS Ultra: School Edition</i> is updated on a <i>daily</i> basis</p> <p><i>MEDLINE</i> is updated on a <i>weekly</i> basis</p> <p><i>MEDLINE with Full Text</i> is updated on a <i>weekly</i> basis</p> <p><i>Middle Search Plus</i> is updated on a <i>daily</i> basis</p> <p><i>Newspaper Source</i> is updated on a <i>daily</i> basis</p> <p><i>NoveList</i> is updated on a <i>monthly</i> basis</p> <p><i>NoveList K-8</i> is updated on a <i>monthly</i> basis</p> <p><i>Points of View Reference Center</i> is updated on a <i>monthly</i> basis</p> <p><i>Primary Search</i> is updated on a <i>daily</i> basis</p> <p><i>Professional Development Collection</i> is updated on a <i>weekly</i> basis</p> <p><i>Psychology &amp; Behavioral Sciences Collection</i> is updated on a <i>daily</i> basis</p> <p><i>Religion &amp; Philosophy Collection</i> is updated on a <i>daily</i> basis</p> <p><i>The Serials Directory</i> is updated on a <i>quarterly</i> basis</p> <p><i>TOPICsearch</i> is updated on a <i>daily</i> basis</p> <p><i>Vocational &amp; Career Collection</i> is updated on a <i>daily</i> basis</p>		<p>author's prohibition of rights. More publishers are sending exclusion lists, but EBSCO intends to work directly with author groups to attempt to re-gain rights to many of these articles.</p> <p><i>Publisher Imposed Embargo</i> - publishers contracting for republishing their information on a delayed time cycle only. This is primarily on academic journals and not typically on general magazines.</p> <p>Most of our periodicals have no embargo period. For peer-reviewed, scholarly journals, embargoes are not uncommon, and our title lists reflect the length of embargo next to any journal that has one. Embargo periods are very uncommon on general magazines and usually are very short.</p> <p>Embargo information, where applicable is clearly outlined on database title lists and within the publication authority files available to end users.</p>
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<p><b><u>SPECIFICATION – Description of Database</u></b>  Can the vendor customize electronic journals and database collections?  Describe current capabilities as well as costs for this service.</p>	MEET (Y/N)	ANTICIPATED ENHANCEMENT (DATE)
<p><b><u>RESPONSE</u></b>  The following customization features are available at no extra charge.</p> <p>Through EBSCO<i>admin</i><sup>™</sup>, the administrative module for EBSCO<i>host</i>, library administrators can create an exclusions collection. This title exclusion feature allows administrators to remove titles from the title lists, therefore preventing access for that particular periodical. The administrator may exclude complete collections and individual titles.</p> <p>Many aspects of EBSCO<i>host</i> databases are customizable. On the title level, customers may decide to establish links to and from online catalogs, ILL forms, document delivery services, or other journals under subscription.</p> <p>EBSCO<i>host</i> is also compatible with all commercial linking servers. Customers may create local holdings collections linked from the databases and may also decide (on an individual title level) to exclude any particular title from appearing in search results. Please note, however, that EBSCO does not allow customers to change aspects of information related to a title such as publication name, ISSN, etc.</p> <p>In a local holding collection, the titles themselves are not customizable. When we create a collection we use the ISSN, and the actual publication title. We do not have the ability to modify either of these. Other aspects of a local holdings collection can be customized, but not the titles.</p>	Y	Ongoing
<p><b><u>SPECIFICATION – Description of Searching Capabilities</u></b>  Does the system allow simple command oriented searching? If so, is searching by author, name, company, title, subject and keywords?</p>	MEET (Y/N)	ANTICIPATED ENHANCEMENT (DATE)
<p><b><u>RESPONSE</u></b>  EBSCO<i>host</i> allows simple command oriented searching including but not limited to searching by author, name, company, title, subject and keywords.</p> <p><i>Author Name</i> - EBSCO<i>host</i> allows the user to limit searches by author. For example, users may employ the field code (AU) to limit a search by author name - AU Jefferson.</p> <p><i>Name</i> - EBSCO<i>host</i> allows the user to perform a keyword search for people's names referenced in articles. For example, users may employ the field code (PE) to limit a search by name – PE SMITH, John</p>	Y	Ongoing

*Company/Entity* – EBSCOhost allows the user to perform a keyword search of a company entity, company subject headings, DUNS number, and ticker symbol. For example, users may employ the field code (CO) to limit a search by company entity – CO EBSCO.

*Journal Title* - For example, users may employ the field code SO (source) to limit a search by the source (e.g. SO Time). Or, users may enter a journal/magazine name in the Publication limiter field on the search window to limit results to articles only from that title.

*Article Title* - EBSCOhost allows the user to limit searches by article title. For example, users may employ the field code (TI) to limit a search by the title of the article - TI education.

EBSCOhost supports subject searching. EBSCOhost provides access to a controlled vocabulary or subject file for subject searching. This is supported via the Subjects Authority File, which lists the information contained in the database according to topic. To conduct a subject search, users would click on the Subject Authority File button located on the Sub-Toolbar. The Subject Authority File screen will display. Users can then browse the authority file list alphabetically or as relevancy-ranked, and references for the term that the user searched can also be sorted by type. The Result List lets the user view the specific results. There may also be a hierarchy of subdivisions related to the user's search. Users would click on any of the available links to open another Result List, or click 'See also related terms' to further narrow the search. Additionally, these cross references may help point users to narrower terms, broader terms, related terms, headings or subheadings. Additionally, on the Detailed Citation display, the subject or thesaurus terms may appear as hypertext links, which allows the user to also perform a search of that specific subject heading.

*Keyword searches* - EBSCOhost supports keyword searching. EBSCOhost allows users to search the database(s) using their own words and phrases.

<b><u>SPECIFICATION – Description of Searching Capabilities</u></b> Does the system provide for basic and more sophisticated Boolean searching ("and", "or", "not")? Describe the systems functionality in this regard.	<b>MEET (Y/N)</b>	<b>ANTICIPATED ENHANCEMENT (DATE)</b>
<p><b><u>RESPONSE</u></b></p> <p>EBSCOhost uses Boolean search operators to construct searches from items entered into the search screen. The AND, OR, and NOT operators are all supported. The AND search operator combines search terms in the same search screen field so that each search result contains all the terms. The OR operator combines search terms so that each search result contains at least one of the terms. The OR operator applies to two or more terms separated by the word “or”. The NOT operator excludes terms from a search so that search results do not contain any of the terms. The default Boolean operator is AND.</p> <p>EBSCOhost offers a number of additional searching options including, but not limited to, the following:</p> <p>Publication browsing allows the user to view all publications available in a particular database. To access the Publication Authority File, users would click the ‘Publication’ sub-toolbar button from the Tabbed Toolbar. From the Publications tab, users enter their search terms in the Browse for field and select either Publications beginning with, Match any words, or Match exact phrase, and click Browse. A result list is displayed. Users can click the hyperlinked ‘Publication Name’ to view an overview of the selected publication. From the overview, users can click on the hyperlinked ‘Publication Details’ for specific information on the selected publication. The Publication Details may contain a direct URL to the publisher, in addition to issue and volume detail links for content found within the database(s) currently being searched. Users can use the ‘Mark Items for Search’ feature to search several publications at the same time, or to combine publication names with other search terms.</p> <p><i>Controlled Subject Vocabulary</i> - EBSCOhost provides access to a controlled vocabulary or subject file for subject searching. This is supported via the Subjects Authority File or Thesaurus, which lists the information contained in the database according to topic.</p> <p><i>Field Code Searching</i> - EBSCOhost supports searching using field codes. Users may use field codes to create a search using indexed fields referenced in either the citation or full display (or full text, if available).</p> <p><i>Abstract</i> - EBSCOhost allows the user to search the abstract summaries for keywords. For example, users may employ the field code (AB) to search the abstract summaries - AB Jupiter.</p> <p><i>Date/Date Range</i> - EBSCOhost allows users to search by date or date range (year of publication). Via the “Published Date” limiter, users can create date ranges by using drop menu lists to specify the months of the range and enter the year in the entry fields to specify the year of the range. Users may also employ the field code (DT) to limit a search by date or date range (year of publication) - DT 1996 -, DT 1999-2000.</p> <p><i>Phrase searches</i> - EBSCOhost supports phrase searching. EBSCOhost searches for phrases with and without any punctuation marks. Example: Enter <i>television</i>:</p>	<p>Y</p>	<p>Ongoing</p>

*talk show* to find the words “*television talk-show*”, “*television talk show*” or (if synonym list option is turned on) “*TV talk show*”. If a user uses a hyphenated word as a search term, EBSCOhost automatically searches for the word in hyphenated form and as a two-word phrase. Example: Type *coca-cola* to find the words “*coca cola*” or “*coca-cola*”.

*Proximity searching* - EBSCOhost supports proximity searching. The proximity operators are composed of a letter (N or W) and a number (to specify the number of words). The proximity operator is placed between the words, which are to be searched in proximity. The number of words can be predetermined by the administrator.

“*N*” (*Near Operator*) In the following example, “N5” will find the words if they are within 5 words of one another regardless of the order in which they appear. Example: *tax N5 reform* would find results that would match “*tax reform*” as well as “*reform of income tax*”.

“*W*” (*Within Operator*) In the following example, “W8” will find the words if they are within 8 words of each other and in the order in which the user entered them. Example: *tax W8 reform* would find results that would match “*tax reform*” but would not match “*reform of income tax*”.

*Wildcards* - EBSCOhost supports wildcards. The wildcard is represented by a question mark (?). To use the wildcard, users would enter their search terms and replace each unknown character with a question mark (?). EBSCOhost will find all citations of that word with the ? replaced by a letter. For example: type “*ne?t*” to find all citations containing “*neat*”, “*nest*”, or “*next*”.

*Truncation* - EBSCOhost supports truncation. Truncation is represented by the asterisk (\*). To use truncation, users would enter the root of search term and replace the ending with an \*. EBSCOhost finds all forms of that word. For example: type “*comput\**” to find the words “*computer*” or “*computing*”.

*Source Type Searching* - EBSCOhost also allows users to search by source type. On EBSCOhost, result lists for selected databases with various content types will appear organized by source type, such as magazines, scholarly journals, pamphlets, monographs, images, company profiles, country economic data, reference books, etc. The user can view all results or click on a content type to view only those results. This option is controlled by the administrator in EBSCOadmin.

*Relevancy* - EBSCOhost supports display of retrieved items by relevance. On the Result List, users may employ the ‘Sort by’ drop down list to re-sort results by relevance. In calculating a relevancy ranking, the EBSCOhost search engine considers each word from the query and determines its importance using an algorithm that looks at the number of times the word appears in the record; which field the record appears in; and the number of times the word appears in the database. The individual word-level scores are summed to get a record-level score. With this approach, the score is based on the number of matching words and the rarity of these words.

*Limit by fields* - EBSCOhost supports the ability to limit searches by various criteria via EBSCOhost’s limiter options. Limiters let users narrow the focus of their search so that the information retrieved from the databases they search is limited according to the values they select. Users can use more than one limiter if more than one is available.

Some common EBSCOhost limiter options include the following:

- *Full Text* - Users select this option to limit results to articles with full text.
- *Scholarly (Peer-Reviewed) Journals* - Users select this option to limit search results to articles from peer-reviewed journals.
- *Publication* - Users enter a journal/magazine name in this field to limit results to articles only from that title.
- *Published Date* - Users select this option to search for articles within a specified date range. Users would create a range by using the drop menu lists to specify the months of the range and enter the digits of the year in the entry fields to specify the year of the range.
- *Cover Story* - Users select this option to limit results to articles that were featured as cover stories.
- *Articles with Images* - Users select this option to limit results to articles with images.
- *Local Titles* - Users select this option to limit results to articles available at the library.
- *Number of Pages* - Users would enter a number in this field to limit results to a specific number of pages in length.
- *Publication Type (database-specific)* - Users select this option to limit results to specific publication types.

Limiters do not limit one another. If a user selects both Date Published and Abstract Available limiters, the results that are retrieved include all items in the specified date range and all items with abstracts available. Note that via the Advanced Search window, EBSCOhost offers the ability for users to select special limiters for each database. In other words, one search may be conducted across several databases, with differing parameters placed on each individual database. This optimizes not only efficiency in searching, but also effectiveness in conducting detailed, proper search queries, in order to retrieve appropriate results.

<p><b><u>SPECIFICATION – Description of Searching Capabilities</u></b></p> <p>When long searches are identified, does the system provide options for continuing the search, previewing some of the hits, narrowing the search, or terminating the search?</p>	<p>MEET (Y/N)</p>	<p>ANTICIPATED ENHANCEMENT (DATE)</p>
<p><b><u>RESPONSE</u></b></p> <p>When long searches are identified, the users may continue by refining searches, previewing citations (or detailed records) of search results, or narrowing the search. As mentioned above, several limiting options may be used, as well as expanders, which allow the researcher to search for related words, search within full text of the article, or to automatically ‘and’ search terms.</p> <p>The Result List lets the user view the specific results. There may also be a hierarchy of subdivisions related to the user’s search. Users would click on any of the available links to open another Result List, or click ‘See also related terms’ to further narrow the search. Additionally, these cross references may help point users to narrower terms, broader terms, related terms, headings or subheadings. Additionally, on the Detailed Citation display, the subject or thesaurus terms may appear as hypertext links, which allows the user to also perform a search of that specific subject heading.</p> <p>Users can terminate the search and begin a new search. Users can click on <b>New Search</b> along the top, right-hand corner of the screen to clear the search screen and return to the default search screen.</p>	<p>Y</p>	<p>Ongoing</p>
<p><b><u>SPECIFICATION – Description of Searching Capabilities</u></b></p> <p>Describe other searching features which may be important to end users.</p>	<p>MEET (Y/N)</p>	<p>ANTICIPATED ENHANCEMENT (DATE)</p>
<p><b><u>RESPONSE</u></b></p> <p>EBSCO’s databases are available via EBSCOhost and/or several age/subject appropriate user interfaces.</p> <p>EBSCOhost provides search screens categorized as appropriate to the system and allows users to create searches that are as narrow or broad as needed, and display or save the results in a variety of ways. Via EBSCOhost, a search can begin on the Basic or Advanced screen, each of which contains one or more fields for entering search terms and search options (limiters, expanders, etc.). Each search type provides different options and techniques to help users focus their searches. When a user makes selections on a search screen, EBSCOhost searches the database(s) the user has selected for results that most closely match the search terms.</p> <p>EBSCOhost offers customizable basic and advanced searching supported by Boolean logic, enhanced subject indexing and journal searching to assist users in performing thorough investigations of their research topics. With links from the full record display to related articles by subject, magazine issue or author,</p>	<p>Y</p>	<p>Ongoing</p>

researchers can further explore their topic.

EBSCO*host* offers different levels of search screens, instructions and prompts appropriate for beginners and experienced searchers. On EBSCO*host*, all prompts, menus, instructions, help and on-screen text are clear, concise and easy to follow. The EBSCO*host* interfaces are extremely user-friendly, and the search screens guide the user effortlessly through the searching process. Beginners will find the commands easy to follow, while advanced researchers will have access to many sophisticated options.

On the Basic and Advanced search screens, EBSCO*host* provides three toolbars for enhanced functionality. Users would use the toolbars to quickly navigate through the different EBSCO*host* search screens and features. The Tabbed Toolbar is always available, and from it users can select a different search screen, choose other databases for searching, or if available, select other EBSCO services to which the library subscribes. The sub-toolbar is available from the search screens and will vary, depending on which databases and features the library administrator enables in EBSCO*admin*. Keyword, Subject, and Publication authority file links are displayed on both the Basic and Advanced search screen sub-toolbars, when available.

The Basic Search screen lets users create a search using a variety of search methods. Users enter their search terms in the Find field and can select any limiters or expanders available on the Refine Search tab. The Advanced Search screen provides additional options for limiting and expanding a search and uses keyword searching, search history, limiters, and database-specific limiters to help users focus their search. Also, if provided by the administrator, either additional guided search fields or a search builder may also be available.

#### ***Student Research Center™***

EBSCO has created a search interface designed specifically for secondary school students according to their needs and search abilities. *Student Research Center™* provides students in secondary schools with the most appropriate research tools for easily obtaining the information that they seek from their EBSCO databases.

Through the *Student Research Center*, users can easily pre-determine which content sources (e.g., Magazines, Newspapers, Biographies, Country Reports, Film & Video) will be included with their search. They can also search their databases by topic heading, make use of an online dictionary and encyclopedia, explore the top searches of the day, and even limit their search according to appropriate Lexile reading levels.

The following databases are made available via *Student Research Center*:

*Academic Search Elite* - \* Available from the teacher resources only

*Academic Search Premier* - \* Available from the teacher resources only

*Advanced Placement Source* - \* Available from the teacher resources only

*Book Collection: Nonfiction*

*ERIC* - \*Available from the teacher resources only

*Health Source: Consumer Edition*

*History Reference center*

*MagillOnLiterature Plus*

*MAS Ultra – School Edition*

*Middle Search Plus*

*Newspaper Source*

*Professional Development Collection* - \*Available from the teacher resources

only  
*TOPICsearch*  
*Vocational & Career Collection*

***Kids Search™***

EBSCO has created a search interface designed specifically for elementary/middle school students according to their needs and search abilities. The *Kids Search™* interface combines a state-of-the-art search engine (powered by EBSCOhost®) with a child-friendly, graphically-rich design that is both powerful and fun to use.

*Kids Search* makes it easier for students to look for their subjects of interest by automatically searching across all applicable databases simultaneously. Important features and functionality of *Kids Search* include a completely new, visually appealing look and feel; the ability to search by topic, subtopic, or keywords; simultaneous searching across all subscribed databases; the ability to sort results by relevance, as well as by date; the option of filtering search results by source type; and the ability to add search results, images, or persistent links to searches to the Folder.

*Academic Search Elite* - \* Available from the teacher resources only  
*Academic Search Premier* - \* Available from the teacher resources only  
*Advanced Placement Source* - \* Available from the teacher resources only  
*Book Collection: Nonfiction*  
*ERIC* - \*Available from the teacher resources only  
*History Reference Center*  
*Middle Search Plus*  
*Newspaper Source*  
*Primary Search*  
*Professional Development Collection* - \*Available from the teacher resources only  
*TOPICsearch*

The following databases are made available via *Kids Search*:

***Searchasaurus®***

Several popular elementary and middle school databases can be accessed via *Searchasaurus®*. *Searchasaurus* is EBSCO Publishing's user search experience for users in elementary or middle schools. Complete with erupting volcanoes, dinosaur guide and compass, *Searchasaurus* is an exciting and easy way for young researchers to experience online searching. It is an animated interface with a dinosaur theme that encourages young researchers to enhance and develop basic search methodologies. They will be riveted by the colorful, animated interface as they gather information on a wide range of topics. *Searchasaurus* offers Lexile limiters (reading level), making it easy for young patrons to read and research only appropriately challenging materials. The following databases are made available via *Searchasaurus*:

*Academic Search Elite* - \*Available from the teacher resources only  
*Academic Search Premier* - \* Available from the teacher resources only  
*Book Collection: Nonfiction*  
*ERIC* - \*Available from the teacher resources only  
*Middle Search Plus*  
*Newspaper Source*  
*Primary Search*

<p><i>Professional Development Collection</i> - *Available from the teacher resources only <i>TOPICsearch</i></p> <p>Some databases may include Lexiles in citation information. The Lexile assigned to a result gives an educator an estimate of the reading difficulty of the result, and the approximate grade level reading ability required for comprehension. The grade level does not necessarily reflect the student's actual grade.</p>		
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<p><b><u>SPECIFICATION – Help/Training</u></b> Does the system provide a help function at any time during the search?</p>	<p>MEET (Y/N)</p>	<p>ANTICIPATED ENHANCEMENT (DATE)</p>
<p><b><u>RESPONSE</u></b> Online help can be accessed at any time during a search.</p> <p>Online Help on EBSCOhost is current, accurate, easily understandable, well organized and context sensitive. The Help link is available on the Utility Toolbar from every user interface screen. It provides users with a detailed table of contents, arranged by main topics, with hyperlinks to subtopics underneath each one. Links to helpful Flash tutorials are shown on the right of the open Help screen, along with a link to EBSCO’s Support Site, where users and library administrators can find thousands of FAQs, additional tutorials, software release information, training materials such as user guides and help sheets, top stories and the online form for communicating with EBSCO’s Technical Support department at any time.</p> <p>Database specific help is also available to end users. From the Choose Database(s) page, user can find database specific help by clicking the More Information link for each corresponding database. This will bring the user to the Database Information Screen. The Database Information Screen provides search tips and information on searchable fields, reference browsing, publications authority file, index browse authority, and much more.</p> <p>EBSCOhost features context-specific help. To provide immediate user assistance on the EBSCOhost search screens, strategically placed question mark icons appear among the interface screens. When clicked, the user is presented with context specific help, eliminating the need to browse through the Online Help manual about those areas of EBSCOhost.</p> <p>Additionally, a 24-hour-a-day online gateway to EBSCO’s Technical Services is available to empower sites to discover their own technical solutions. Via an interactive Web page at <a href="http://support.ebscohost.com">http://support.ebscohost.com</a> (EBSCO’s Web site designed specifically for customers to provide detailed support information about EBSCO’s products and services), libraries can access a range of resources to find answers to technical issues on their own. The interactive Web page features knowledge base technology, an ‘Open a Case’ feature and links to troubleshooting information, search tips, top stories, tutorials, support materials, release information, listserv archive, etc. This support service is available to libraries at no additional cost.</p> <p>EBSCOhost provides a spell-check feature that suggests alternative spellings. If activated by the library administrator, when a user misspells search terms, the spell checker suggests alternate spellings, and provides access to a Result List of the alternate terms.</p> <p>Please note that currently, upon an unsuccessful search in EBSCOhost, a No Results message will appear on the screen. This feature offers suggestions regarding how users may revise their search if their initial search yielded no results. However, when browsing an author or publication file, etc., EBSCOhost will display the closest alphabetical matches.</p>	<p>Y</p>	<p>Ongoing</p>

<p><b><u>SPECIFICATION – Help/Training</u></b>  Does the system include: provision of an on-line general tutorial on conducting searches, provision of different levels of instruction (e.g. beginner, advanced) printed training materials, training directly from vendor.</p>	<p>MEET (Y/N)</p>	<p>ANTICIPATED ENHANCEMENT (DATE)</p>
<p><b><u>RESPONSE</u></b>  EBSCO provides the highest quality training and documentation to our customers, including online tutorials, different level of instruction, printed training materials, and scheduled onsite training. Delivery methods are detailed below.</p> <p>EBSCO Publishing offers world-class training in a variety of delivery methods, all designed to educate users and administrators on the rich functionality of our products, as well as help all types of organizations to successfully integrate use of these valuable resources into their libraries. EBSCO has the in-house capacity to provide online training to all its customers. All of EBSCO’s training staff are fully trained in all aspects of EBSCO<i>host</i> access as well as knowledge of the training equipment.</p> <p><b>Online Tutorials</b>  Designed to train users and administrators on key features of EBSCO's products, these short, computer-based lessons are available free of charge on the EBSCO Support &amp; Training Website (<a href="http://support.ebscohost.com">http://support.ebscohost.com</a>.), as well as within the EBSCO<i>admin</i> and EBSCO<i>host</i> interfaces.</p> <p><b>End User Topics</b>  Information searchers will quickly become fluent navigating EBSCO's interfaces and databases. Covered tutorial topics include Basic Searching, Advanced Searching, personalization, and database-specific instructions.</p> <p><b>Administrator Topics</b>  For library administrators responsible for utilizing EBSCO<i>admin</i> to enable EBSCO features within their libraries, online tutorials provide useful instruction regarding key features such as Customize Services, Authentication, and Reports &amp; Statistics.</p> <p><b>Online Training Courses</b>  Online courses provide training and demonstration for users and administrators on a variety of EBSCO products and interfaces. Sessions are offered several times each month. Participants must have access to a computer and a phone connection. To sign up for a class, visit <a href="http://support.ebscohost.com">http://support.ebscohost.com</a>.</p> <p><b>Competency-Based Training</b>  EBSCO Publishing has developed a series of competency-based courses to help customers succeed with usage or electronic resources, as well as other key areas of library management. This training tends to be more focused to specific types of libraries, e.g. school, public, academic, etc.</p> <p>For more information regarding competency-based courses, contact <a href="mailto:customersuccess@ebscohost.com">customersuccess@ebscohost.com</a>.</p> <p>Topics include:</p>	<p>Y</p>	<p>Ongoing</p>

- Collaboration Strategies
- Evaluating your Library with the Balanced Scorecard
- Leadership Skills for Librarians
- Curriculum Integration Workshop

In addition, EBSCO also offers complete descriptive literature (documentation, support materials, training materials and user guides), which indicates and outlines the functionality, options and features of the *EBSCOhost* and *EBSCOadmin* services for end-user support, system administration and library staff. EBSCO Publishing maintains the *EBSCOhost* Support Web site (<http://support.ebscohost.com>) that offers a wide range of up-to-date training materials on the 'Support Materials' page (<http://support.ebscohost.com/training/materials.php>) including User Guides, Flash tutorials, Resource Guides and Help Sheets for *EBSCOhost* services. Materials are available in PDF and/or Word format and may be printed and/or downloaded for use.

To assist the end-user in searching, EBSCO has created a User Support Program that offers a variety of quick reference pieces and training tools (Search Help Sheets and Table Tents). These materials are supplied at no additional cost.

As previously mentioned, Online Help and database specific help are also available.

Additionally, a 24-hour-a-day online gateway to EBSCO's Technical Services is available to empower sites to discover their own technical solutions. Via an interactive Web page at <http://support.ebscohost.com> (EBSCO's Web site designed specifically for customers to provide detailed support information about EBSCO's products and services), libraries can access a range of resources to find answers to technical issues on their own. The interactive Web page features knowledge base technology, an 'Open a Case' feature and links to troubleshooting information, search tips, top stories, tutorials, support materials, release information, listserv archive, etc. This support service is available to libraries at no additional cost.

EBSCO Publishing will provide onsite training sessions on the use of EBSCO resources and *EBSCOadmin* (the administrative module for *EBSCOhost*). We anticipate that these sessions shall serve as 'refresher' courses since the State currently subscribes to *EBSCOhost* databases. The schedule will be developed in conjunction with the State. There is no additional cost for the training sessions. EBSCO strongly believes that a successful implementation plan must include detailed training sessions. It has been our experience with nearly 40 state-wide and 50 national contracts (outside of the U.S.) that the key to success and future funding is a solid, proactive training plan, initiated in the very early stages of the contract period. The purpose of the sessions is not to focus on basic search techniques, since the product is made to be used by novices. The purpose of the sessions is to promote the content purchased by the State and to educate librarians on the customization options available to them.

Our goal is to have training sessions in centralized sites that make sense to both our training staff and the State. Additional training annually or when there is a major change to the database(s) user interface will be provided upon request at no additional cost. Our goal is to continue to provide the State with an unparalleled level of service.

*Training Timeline:*

In an effort to have all the libraries participating as soon as possible, and to provide the best possible service once the contract has been awarded, EBSCO would like to schedule the sessions (indicated above) immediately.

*Training Staff:*

As part of providing customized periodical management services, EBSCO will provide the following staff members to assist in training for affiliated libraries. The EBSCO training staff will include, but will not be limited to the individuals mentioned below:

Ed Roche, Senior Director of Sales  
Extensive training, product knowledge and technical experience

Jim Kropelin, Regional Sales Manager  
Extensive training, product knowledge and technical experience

Pamela Erickson, Regional Sales Manager  
Extensive training, product knowledge and technical experience

Nancy Grimaldi, Field Sales Representative  
Extensive training and product knowledge

Michael James, Field Sales Representative  
Extensive training and product knowledge

*Training Requirements:*

EBSCO recommends the following equipment to be available for the proposed training sessions (historically, participating sites have been very accommodating):

- Computer Lab availability with PCs for hands-on time
- PC with Internet connectivity
- Projection unit attached to PC and Screen
- Microphone for large rooms
- Current version of Netscape and/or Microsoft Internet Explorer loaded on all PCs

*Training Materials:*

- EBSCO*host* User's Guide
- EBSCO*admin* User's Guide
- EBSCO*host* Web Search Help Sheets

(The above information can easily be posted on the State homepage for simple distribution for further in-state training sessions.)

<p><b><u>SPECIFICATION –Display, Print, Download</u></b></p> <p><b><u>Function</u></b></p> <p>Does the system provide screens that are clear and easy to interpret? Labels for fields should be easily interpreted.</p>	<p>MEET (Y/N)</p>	<p>ANTICIPATED ENHANCEMENT (DATE)</p>
<p><b><u>RESPONSE</u></b></p> <p>EBSCOhost provides screens that are clear and easy to interpret. Labels for fields are clear, graphically pleasing and easily interpreted.</p> <p>When the user has opened an article retrieved during a search, the print, e-mail and save options, along with appropriate visual icons, appear above the article title. Clicking on one of these functions brings the user to the appropriate page where instructions for printing, e-mailing and saving articles follow.</p>	<p>Y</p>	<p>Ongoing</p>
<p><b><u>SPECIFICATION – Display, Print, Download</u></b></p> <p><b><u>Function</u></b></p> <p>Does the system provide a method of specifying items to print or download?</p>	<p>MEET (Y/N)</p>	<p>ANTICIPATED ENHANCEMENT (DATE)</p>
<p><b><u>RESPONSE</u></b></p> <p>EBSCOhost allows users to collect results from different searches, store them in the Folder option and manage the Folder contents to print, e-mail or save. To mark/add an item to the Folder for printing, saving or e-mailing, users would click on the ‘Add’ folder icon located to the right of the chosen result on the Result List. Clicking on the ‘View Folder’ link on the Utility Toolbar or the “Folder has items” link, allows users to view all of their saved results during a session in EBSCOhost.</p> <p>As mentioned, delivery options available to the end user include: Print Options, E-mail Options and Save Options. These are detailed further below:</p> <p>Via the <b>E-mail Manager</b> screen, users are provided with the following E-mail options under the ‘Articles’ tab:</p> <p><i>HTML Full Text</i> – Users would choose this option to e-mail the HTML full text of the article (when available).</p> <p><i>PDF as separate attachment</i> – Users would choose this option to e-mail the PDFs of the selected articles (when available).</p> <p>Information on e-mailing Linked Full Text is also available via the E-mail Manager screen. To save Linked Full Text, users must follow the links directly to the Full Text and then e-mail it.</p> <p>Under Standard Field Formats:</p> <p><i>Brief Citation</i> – Users would choose this option to e-mail a brief citation of the result(s). The brief citation includes the article title, publication name and volume details.</p>	<p>Y</p>	<p>Ongoing</p>

*Brief Citation and Abstract* – Users would choose this option to e-mail the brief citation and abstract of the result(s).

*Detailed Citation and Abstract* – Users would choose this option to e-mail the detailed citation and abstract of the result(s).

Note – Persistent links to the articles will appear with each result.

Under Customized Field Format, users would choose this option if they wanted to select which fields are included in their results.

Users also have the following E-mail options under the ‘Bibliographic Manager’ tab:

*Citations in a format that can be uploaded to bibliographic management software* – Users would choose this option to e-mail citations in a format that can be uploaded from within bibliographic manager software. This option includes all fields available with a citation.

*Citations in Direct Export format* – Users would choose this option to e-mail citations in a format that can be used with Direct Export. This will automatically open any bibliographic management software that is installed on the machine. This options includes those fields supported by Direct Export technology.

Via the **Save Manager** screen, users are provided with the following Save options under the ‘Articles’ tab:

*HTML Full Text* – Users would choose this option to save the HTML full text of the article (when available).

*HTML link(s) to article(s)* – Users would choose this option to indicate that the citation will include a persistent link to the article.

Information on saving PDF Full Text or Linked Full Text is also available via the Save Manager Window. To save PDF Full Text, users must open the PDF in Adobe Acrobat Reader and use the Reader’s Save capability. To save Linked Full Text, users must follow the links directly to the Full Text and then save it.

Under Standard Field Formats:

*Brief Citation* – Users would choose this option to save a brief citation of the result(s). The brief citation includes the article title, publication name and volume details.

*Brief Citation and Abstract* – Users would choose this option to save the brief citation and abstract of the result(s).

*Detailed Citation and Abstract* – Users would choose this option to save the detailed citation and abstract of the result(s).

Under Customized Field Format, users would choose this option if they wanted to select which fields are included in their results.

Users also have the following Save options under the 'Bibliographic Manager' tab:

*Citations in a format that can be uploaded to bibliographic management software* – Users would choose this option to save the items from within the browser window to a location that their software can upload the saved file from. The citations are displayed in the browser window. This option includes all fields available with a citation.

*Citations in Direct Export format* – Users would choose this option to save the citation into a new or existing citation library. Direct Export will automatically open any bibliographic management software that is installed on the machine. This option includes those fields supported by Direct Export technology.

*Direct Export to RefWorks* – This option exports citations directly to RefWorks Web-based bibliographic management software (note – the library must have a subscription to RefWorks to use this option).

Via the **Print Manager** screen, users are provided with the following Print options under the 'Articles' tab:

*HTML Full Text* – Users would choose this option to print the HTML full text of the article (when available).

Information on printing PDF Full Text or Linked Full Text is also available via the Print Manager screen. To print PDF Full Text, users must open the PDF in Adobe Acrobat Reader and use the Reader's Print capability. To print Linked Full Text, users must follow the links directly to the Full Text and then print it.

Under Standard Field Formats:

*Brief Citation* – Users would choose this option to print a brief citation of the result(s). The brief citation includes the article title, publication name and volume details.

*Brief Citation and Abstract* – Users would choose this option to print the brief citation and abstract of the result(s).

*Detailed Citation and Abstract* – Users would choose this option to print the detailed citation and abstract of the result(s).

Under Customized Field Format, users would choose this option if they wanted to select which fields are included in their results.

*Estimate Number of Pages* – Users would choose this link to identify the approximate number of pages that will be printed.