



AGREEMENT PURSUANT TO SOLICITATION

**CITY OF MESA AGREEMENT NUMBER 2020050
OFFICE SUPPLIES AND PRODUCTS**

CITY OF MESA, Arizona (“City”)

Department Name	City of Mesa – Purchasing Division
Mailing Address	P.O. Box 1466 Mesa, AZ 85211-1466
Delivery Address	20 East Main St, Suite 450 Mesa, AZ 85201
Attention	Kristy Garcia, CPPO, CPPB Procurement Supervisor
E-Mail	Kristy.Garcia@MesaAZ.gov
Phone	(480) 644-5052
Fax	(480) 644-2655

With a copy to: City of Mesa – Business Services
Attn: Matt Bauer, Procurement Administrator
P.O. Box 1466
Mesa, AZ 85211-1466
Matt.Bauer@MesaAZ.gov

AND

WIST BUSINESS SUPPLIES & EQUIPMENT, (“Contractor”)

Mailing Address	107 W. Julie Dr. Tempe, AZ 85283
Remit to Address	107 W. Julie Dr. Tempe, AZ 85283
Attention	Bill Strait, Sales Manager
E-Mail	bstrait@wist.com
Phone	(480) 921-2900
Fax	(480) 921-2121

CITY OF MESA AGREEMENT PURSUANT TO SOLICITATION

This Agreement pursuant to solicitation ("Agreement") is entered into this 8th day of July, 2020, by and between the City of Mesa, Arizona, an Arizona municipal corporation ("City"), and Wist Business Supplies & Equipment, a(n) Arizona corporation ("Contractor"). The City and Contractor are each a "Party" to the Agreement or together are "Parties" to the Agreement.

RECITALS

- A. The City issued solicitation number **2020050** ("Solicitation") for **OFFICE SUPPLIES AND PRODUCTS**, to which Contractor provided a response ("Response"); and
- B. The City Selected Contractor's Response as being in the best interest of the City and wishes to engage Contractor in providing the services/materials described in the Solicitation and Response.

In consideration of the reciprocal promises contained in the Agreement, and for other valuable and good consideration, which the Parties acknowledge the receipt and sufficiency of, the Parties agree to the following Terms & Conditions.

TERMS & CONDITIONS

1. **Term**. This Agreement is for a term beginning on **August 1, 2020** and ending on **July 31, 2025**. The use of the word "Term" in the Agreement includes the aforementioned period as well as any applicable extensions or renewals in accordance with this Section 1.
 - 1.1 **Extension for Procurement Processes**. Upon the expiration of the Term of this Agreement, including any renewals permitted herein, at the City's sole discretion this Agreement may be extended on a month-to-month basis for a maximum of six (6) months to allow for the City's procurement processes in the selection of a vendor to provide the services/materials provided under this Agreement. The City will notify the Contractor in writing of its intent to extend the Agreement at least thirty (30) calendar days prior to the expiration of the Term. Any extension under this Subsection 1.2 will be a continuation of the same terms and conditions as in effect immediately prior to the expiration of the then-current term.
 - 1.2 **Delivery**. Delivery shall be made to the location(s) contained in the Scope of Work within one (1) day after receipt of an order.
2. **Scope of Work**. The Contractor will provide the necessary staff, services and associated resources to provide the City with the services, materials, and obligations attached to this Agreement as **Exhibit A** ("Scope of Work") Contractor will be responsible for all costs and expenses incurred by Contractor that are incident to the performance of the Scope of Work unless otherwise stated in **Exhibit A**. Contractor will supply all equipment and instrumentalities necessary to perform the Scope of Work. If set forth in **Exhibit A**, the City will provide Contractor's personnel with adequate workspace and such other related facilities as may be required by Contractor to carry out the Scope of Work.

The Agreement is based on the Solicitation and Response which are hereby incorporated by reference into the Agreement as if written out and included herein. In addition to the requirements specifically set forth in the Scope of Work, the Parties acknowledge and agree that the Contractor shall perform in accordance with all terms, conditions, specifications and other requirements set forth within the Solicitation and Response unless modified herein.

3. **Orders**. Orders be placed with the Contractor by either a: (i) Purchase Order when for a one-time purchase; (ii) Notice to Proceed, or (iii) Delivery Order off of a Master Agreement for Requirement Contract where multiple as-needed orders will be placed with the Contractor. The City may use the Internet to communicate with Contractor and to place orders as permitted under this Agreement

4. **Document Order of Precedence.** In the event of any inconsistency between the terms of the body of the Agreement, the Exhibits, the Solicitation, and Response, the language of the documents will control in the following order.
- a. Agreement
 - b. Exhibits
 1. Mesa Standard Terms & Conditions
 2. Scope of Work
 3. Other Exhibits not listed above
 - c. Solicitation including any addenda
 - d. Contractor Response

5. **Payment.**

5.1 **General.** Subject to the provisions of the Agreement, the City will pay Contractor the sum(s) described in **Exhibit B** (“Pricing”) in consideration of Contractor’s performance of the Scope of Work during the Term.

5.2 **Prices.** Unit Prices for Core List Items shall be fixed for one (1) year from the time of contract award and execution. No substitution will be allowed on Core List Items unless a letter is provided from the Manufacturer. No price increases will be accepted without proper request by Contractor accompanied with appropriate, acceptable, substantiation documentation, and approval by the Mesa’s Purchasing Division. Price increase requests (including notification of new catalog prices) will be considered once annually and shall be submitted no less than thirty (30) days in advance of the contract term annual anniversary. Catalog price updates shall not be unreasonably withheld. Price reductions may be issued at any time. Any price adjustments shall be mutually agreed upon by the City Procurement Officer and the Contractor. The Contractor shall be responsible for notifying Agencies utilizing the contract of any price increases approved by the City.

The City reserves the right to terminate the contract without further obligation by either party in the event price increases are not acceptable. Escalating factors will not be automatically granted. Requests for price increases shall be in writing and accompanied with appropriate supporting documents acceptable to the City. The request shall state the percentage increase and the revised price for each affected contract item.

For Non-Core items prices charged to the City are based on a percentage discount from List Prices. Percentage discounts are to remain firm for the duration of the contract.

5.3 **Invoices.** Payment will be made to Contractor following the City’s receipt of a properly completed invoice. No terms set forth in any invoice, purchase order or similar document issued by Contractor will be deemed accepted by the City; the terms of the contractual relationship between the Parties are as set forth in this Agreement. Any issues regarding billing or invoicing must be directed to the City Department/Division requesting the service or material from the Contractor. A properly completed invoice should contain, at a minimum, all of the following:

- a. Contractor name, address, and contact information;
- b. City billing information;
- c. City contract number as listed on the first page of the Agreement;
- d. Invoice number and date;
- e. Payment terms;
- f. Date of service or delivery;
- g. Description of materials or services provided;
- h. If materials provided, the quantity delivered and pricing of each unit;
- i. Applicable Taxes

- j. If applicable, mileage or travel costs; and
- k. Total amount due.

5.4 **Payment of Funds.** Contractor acknowledges the City may, at its option and where available use a Procurement Card/e-Payables to make payment for orders under the Agreement. Otherwise; payment will be through a traditional method of a check or Electronic Funds Transfer (EFT) as available.

5.5 **Disallowed Costs, Overpayment.** If at any time the City determines that a cost for which payment was made to Contractor is a disallowed cost, such as an overpayment or a charge for materials/service not in accordance with the Agreement, the City will notify Contractor in writing of the disallowance; such notice will state the means of correction which may be, but is not limited to, adjustment of any future claim/invoice submitted by Contractor in the amount of the disallowance, or to require repayment of the disallowed amount by Contractor. Contractor will be provided with the opportunity to respond to the notice.

6. **Insurance.**

6.1 Contractor must obtain and maintain at its expense throughout the term of Contractor's agreement, at a minimum, the types and amounts of insurance set forth in this Section 6 from insurance companies authorized to do business in the State of Arizona; the insurance must cover the materials/service to be provided by Contractor under the Agreement. For any insurance required under the Agreement, Contractor will name the City of Mesa, its agents, representatives, officials, volunteers, officers, elected officials, and employees as additional insured, as evidenced by providing either an additional insured endorsement or proper insurance policy excerpts.

6.2 Nothing in this Section 6 limits Contractor's responsibility to the City. The insurance requirements herein are minimum requirements for the Agreement and in no way limit any indemnity promise(s) contained in the Agreement.

6.3 The City does not warrant the minimum limits contained herein are sufficient to protect Contractor and subcontractor(s) from liabilities that might arise out of performance under the Agreement by Contractor, its agents, representatives, employees, or subcontractor(s). Contractor is encouraged to purchase additional insurance as Contractor determines may be necessary.

6.4 Each insurance policy required under the Agreement must be in effect at or prior to the execution of the Agreement and remain in effect for the term of the Agreement.

6.5 Prior to the execution of the Agreement, Contractor will provide the City with a Certificate of Insurance (using an appropriate "ACORD" or equivalent certificate) signed by the issuer with applicable endorsements. The City reserves the right to request additional copies of any or all of the policies, endorsements, or notices relating thereto required under the Agreement.

6.6 When the City requires a Certificate of Insurance to be furnished, Contractor's insurance is primary of all other sources available. When the City is a certificate holder and/or an additional insured, Contractor agrees no policy will expire, be canceled, or be materially changed to affect the coverage available without advance written notice to the City.

6.7 The policies required by the Agreement must contain a waiver of transfer rights of recovery (waiver of subrogation) against the City, its agents, representatives, officials, volunteers, officers, elected officials, and employees for any claims arising out of the work of Contractor.

6.8 All insurance certificates and applicable endorsements are subject to review and approval by the City's Risk Management Division.

- 6.9 **Types and Amounts of Insurance.** Contractor must obtain and retain throughout the term of the Agreement, at a minimum, the following:
- 6.9.1 Worker's compensation insurance in accordance with the provisions of Arizona law. If Contractor operates with no employees, Contractor must provide the City with written proof Contractor has no employees. If employees are hired during the course of this Agreement, Contractor must procure worker's compensations in accordance with Arizona law.
 - 6.9.2 The Contractor shall maintain at all times during the term of this contract, a minimum amount of \$1 million per occurrence/\$2 million aggregate Commercial General Liability insurance, including Contractual Liability. For General Liability insurance, the City of Mesa, their agents, officials, volunteers, officers, elected officials or employees shall be named as additional insured, as evidenced by providing an additional insured endorsement.
 - 6.9.3 Automobile liability, bodily injury and property damage with a limit of \$1 million per occurrence including owned, hired and non-owned autos.
7. **Requirements Contract.** Contractor acknowledges and agrees the Agreement is a requirements contract; the Agreement does not guarantee any purchases will be made (minimum or maximum). Orders will only be placed when the City identifies a need and issues a purchase order or a written notice to proceed. The City reserves the right to cancel purchase orders or a notice to proceed within a reasonable period of time of issuance; any such cancellation will be in writing. Should a purchase order or notice to proceed be canceled, the City agrees to reimburse Contractor for any actual and documented costs incurred by Contractor. The City will not reimburse Contractor for any avoidable costs incurred after receipt of cancellation including, but not limited to, lost profits, shipment of product, or performance of services.
8. **Notices.** All notices to be given pursuant to the Agreement will be delivered to the Contractor as listed on Page 1 of this Agreement. Notice will be delivered pursuant to the requirements set forth the Mesa Standard Terms and Conditions that is attached to the Agreement as **Exhibit C**.
9. **Representations of Contractor.** To the best of Contractor's knowledge, Contractor agrees that:
- a. Contractor has no obligations, legal or otherwise, inconsistent with the terms of the Agreement or with Contractor's undertaking of the relationship with the City;
 - b. Performance of the services called for by the Agreement do not and will not violate any applicable law, rule, regulation, or any proprietary or other right of any third party;
 - c. Contractor will not use in the performance of Contractor's responsibilities under the Agreement any proprietary information or trade secret of a former employer of its employees (other than City, if applicable); and
 - d. Contractor has not entered into and will not enter into any agreement, whether oral or written, in conflict with the Agreement.
10. **Mesa Standard Terms and Conditions.** **Exhibit C** to the Agreement is the Mesa Standard Terms and Conditions as modified by the Parties, which are incorporated by reference into the Agreement as though fully set forth herein. In the event of any inconsistency between the terms of the Agreement and the Mesa Standard Terms and Conditions, the language of the Agreement will control. The Parties or a Party are referred to as a "party" or "parties" in the Mesa Standard Terms and Conditions. The Term is referred to as the "term" in the Mesa Standard Terms and Conditions.


11. **Counterparts and Facsimile or Electronic Signatures.** This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original and all of which, taken together, will constitute one agreement. A facsimile or other electronically delivered signature to the Agreement will be deemed an original and binding upon the Party against whom enforcement is sought.
12. **Incorporation of Recitals and Exhibits.** All Recitals and Exhibits to the Agreement are hereby incorporated by reference into the Agreement as if written out and included herein. In the event of any inconsistency between the terms of the body of the Agreement and the Exhibits, the language of the Agreement will control.

Exhibits to this Agreement are the following:
 - (A) Scope of Work / Technical Specifications
 - (B) Pricing
 - (C) Mesa Standard Terms and Conditions
 - (D) EASiBuy Bidder Agreement
13. **Attorneys' Fees.** The prevailing Party in any litigation arising out of the Agreement will be entitled to the recovery of its reasonable attorney's fees, court costs, and other litigation related costs and fees from the other Party.
14. **Additional Acts.** The Parties agree to execute promptly such other documents and to perform such other acts as may be reasonably necessary to carry out the purpose and intent of the Agreement.
15. **Headings.** The headings of the Agreement are for reference only and will not limit or define the meaning of any provision of the Agreement.

By executing below, each Party acknowledges that it understands, approves, and accepts all of the terms of the Agreement and the attached exhibits.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF MESA, ARIZONA

By:  Digitally signed by Edward Quedens
DN: cn=Edward Quedens, o=City of Mesa, ou=Business Services Department, email=ed.quedens@mesaz.gov, c=US
Location: City of Mesa
Date: 2020.07.13 08:14:07 -07'00'
Adobe Acrobat version: 2020.009.20067

Printed Name

Title

Date

WIST BUSINESS SUPPLIES & EQUIPMENT

By: Bill Strait

Bill Strait

Printed Name


Sales Mgr.

Title

June 22, 2020

Date

REVIEWED BY:

By: 

Kristy Garcia, CPPO, CPPB
Procurement Supervisor

EXHIBIT A SCOPE OF WORK

1. Contractor shall provide the following services:
 - Provide an online ordering system to all authorized users
 - Next-day, desktop delivery for at least 95% of items available in vendor's catalog
 - Separate login and password for each Agency Order Representative
 - Packing slips accompanying each delivery
 - Ability to accept payment through P-Card (credit-card) for orders at no charge/fees to the agency
 - Access to online capabilities for reprinting invoices, statements, etc.
 - Monthly usage and billing reports available in various formats such as Adobe.pdf and Microsoft Excel
 - All purchase prices must be auditable by Agency staff
 - Provide annual business review and reports that analyze purchases by agency, department, and/or division of issues including overall spend, spend by categories, online ordering use, recycled/green product use and historically under-utilized business use on a quarterly and annual basis
 - Provide printed catalogs for each agency and ordering representative at no charge to the agency
 - A primary account representative to support Agency Order Representatives
 - A primary account representative to support Agency Accounts Payable
 - Have the capability to restrict ("lock" or "block") SKU's from purchase as dictated by the Agency
 - Adding, Editing and Deleting of Agency Order Representatives and delivery locations able to be done by 3-4 designated Agency administrators
2. **DELIVERY REQUIREMENTS/TERMS:** All deliveries shall be F.O.B. destination, freight prepaid and allowed. All freight/delivery shall be included in unit prices. Contractor is to specify if there is any price or delivery cost adjustments or alternative delivery methods for locations outside the Phoenix, Tucson or Yuma metropolitan areas. The City will only pay freight for special orders or orders that require rush shipping per the Order Representative's direction. It is the Contractor's responsibility to check with the Agency for verification of delivery days, times and locations.
3. **REMANUFACTURED TONER/INK CARTRIDGES:** Contractor shall provide a cross reference between new cartridges and remanufactured cartridges. The use of remanufactured toner/ink cartridges is at the discretion of the ordering agency/department.
4. **FINGERPRINT CHECKS:** A contractor, subcontractor or vendor or any employee of a contractor, subcontractor or vendor who is contracted to provide services on a regular basis at an individual school shall obtain a valid fingerprint clearance card pursuant to title 41, chapter 12, article 3.1., and in accordance with A.R.S. 15-512 of each person or employee who may provide such service. A school district governing board shall adopt policies to exempt a person from the requirements of this subsection if the person's normal job duties are not likely to result in independent access to or unsupervised contact with pupils. A school district, its governing board members, its school council members and its employees are exempt from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to this subsection unless the school district, its governing board members, its school council members or its employees are guilty of gross negligence or intentional misconduct.

Additionally, Contractor shall comply with the governing body fingerprinting policies of each individual school district/public entity.
5. **IRS W-9 FORMS:** In order to receive payment under any resulting Contract, Contractor shall have a current I.R.S. W-9 Form on file with the Agency.

6. **MATERIAL SAFETY DATA SHEETS:** Material Safety Data Sheets shall be readily available for all applicable products.
7. **GENERAL PRICING TERMS:** Unit Prices for Core List Items shall be fixed for one (1) year from the time of contract award and execution. No substitution will be allowed on Core List Items unless a letter is provided from the Manufacturer. No price increases will be accepted without proper request by Contractor accompanied with appropriate, acceptable, substantiation documentation, and approval by the City's Purchasing Division. Price increase requests (including notification of new catalog prices) will be considered once annually and shall be submitted no less than thirty (30) days in advance of the contract term annual anniversary. Catalog price updates shall not be unreasonably withheld. Price reductions may be issued at any time. Any price adjustments shall be mutually agreed upon by the City Procurement Officer and the Contractor. The Contractor shall be responsible for notifying Agencies utilizing the contract of any price increases approved by the City.

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For Non-Core items prices charged to the City are based on a percentage discount from List Prices. Percentage discounts are to remain firm for the duration of the contract.

**EXHIBIT B
PRICING**

Pursuant to all the contract specifications enumerated and described in this Agreement, Contractor agrees to furnish **Office Supplies and Products** to the City of Mesa at the price(s) stated below.

City shall pay to Contractor an amount not to exceed **Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000), for a five (5) year term (\$850,000 annually)**, for the goods and services described herein, which sum shall include all cost or expenses incurred by Contractor, payable as set forth in Exhibit B, attached hereto and made a part hereof by reference.

FOB: Destination, Freight Prepaid and Allowed
 Freight Costs: Unit prices shall include all Shipping and Transportation Costs
 No fuel surcharges or tariffs will be accepted

Core Office Supplies						
Line Item #	SKU	Line Item Description	UM	"EACH" DESIGNATION	PACK SIZE	Net Price
CORE-1	VPO00012	PAPER,COPY,8.5X11,20#,WHT 92	CS	RM	10	\$ 30.64
CORE-2	CAS054907RM	PAPER,92 BRT,20,WHT,RM,11X17	RM	Ream	1	\$ 6.25
CORE-3	CASOX9001	PAPER,XERO,WHT,8.5X11,20#	CT	RM	10	\$ 33.99
CORE-4	EVEEN91T	BATTERY,IDSTAA,24 EA=1BX	BX	Battery	24	\$ 5.80
CORE-5	DOM1120CT	PAPER,20#,LTR,92 BRT	CT	Sheet	5000	\$ 30.64
CORE-6	UNV95200	PAPER,XERO/DUP,LTR,98B,WE	CT	RM	10	\$ 38.98
CORE-7	EVEEN92T	BATTERY,IDTAAA,24EA=1BX	BX	Battery	24	\$ 5.80
CORE-8	EVEEN93T	BATTERY,IDST,C,12EA=1BX	BX	Battery	12	\$ 5.83
CORE-9	MMM38506	TAPE,PCKGE,6RL/PK,CR	PK	Roll	6	\$ 24.25
CORE-10	KMW64407	KEYBOARD,WASHABLE,BK	EA	Each	1	\$ 26.25
CORE-11	VER97088	DRIVE,USB FLASH 8GB,BE	EA	Each	1	\$ 5.24
CORE-12	AAGPM128	CALENDAR,WALL,MLY,8X11	EA	Each	1	\$ 5.30
CORE-13	ERG21315	ERGODYNE 8230Z TYPE R CLASS 2	EA	Each	1	\$ 12.66
CORE-14	CAS054901	PAPER,XERO,RCY,WHT,8.5X11	CT	RM	10	\$ 38.99
CORE-15	UNV28230	PAPER,XERO 92 WE,LTR,3HD	CT	RM	10	\$ 27.68
CORE-16	DCC16J16	CUP,16 OZ,FOAM,1M/CTN,WHT	CT	Cup	1000	\$ 69.90
CORE-17	EVEEN22T	BATTERY,IDT,9V,12 EA=1BX	BX	Battery	12	\$ 9.99
CORE-18	BRTTZE231	LABEL,1/2" BK/WHT	EA	Each	1	\$ 7.85
CORE-19	LOG920002836	KEYBOARD,WRLS DT,MK320	EA	Each	1	\$ 34.75
CORE-20	GEO45332	COVER,DOCUMENT COVER,NY	PK	Cover	6	\$ 4.50
CORE-21	SAN30001	MARKER,SHARPIE,FINE PT,BK	DZ	Marker	12	\$ 7.98
CORE-22	VTV10786	Recycled Paper 8 1/2 x11 30%	CT	Sheet	5000	\$ 31.99
CORE-23	SMD19075	FOLDER,6SEC,2/5C,LGL,RD	BX	Folder	10	\$ 35.20
CORE-24	LOG920002555	KEYBOARD,WRLS DT,MK550,BK	EA	Each	1	\$ 75.00
CORE-25	FEL00789	FILE,QUIK,LTR/LGL,CTN12	CT	File	12	\$ 24.70
CORE-26	EVEEN95T	BATTERY,IDST,D,12EA=1BX	BX	Battery	12	\$ 8.86
CORE-27	DEFM13443F	CHAIRMAT,46X60NOLIP,BVL	EA	Each	1	\$ 34.87
CORE-28	VER97275	DRIVE,USB FLASH 16GB,BE	EA	Each	1	\$ 6.87

Line Item #	SKU	Line Item Description	UM	"EACH" DESIGNATION	PACK SIZE	Net Price
CORE-29	QRTP557GP2	BOARD,6X4,PRSTG,WHTBRD,GR	EA	Each	1	\$ 375.00
CORE-30	UNV35763	ROLL,3-1/8"X230',50PK,WE	CT	230 Ft. Roll	50	\$ 54.00
CORE-31	PMC45152	PAPER,36X150,C24,24#,WE	RL	150 Ft. Roll	1	\$ 31.00
CORE-32	TOP7533	PAD,LGL RULED,PERF,LTR,WE	DZ	Pad	12	\$ 7.99
CORE-33	PIL31020	PEN,RBALL,RT,G2,GEL,FN,BK	DZ	Pen	12	\$ 12.58
CORE-34	AAGPM228	CALENDAR,WALL,MLY,12X17	EA	Each	1	\$ 6.97
CORE-35	BWK6272	TOWEL,ROLL,2PLY,30/85,WH	CT	Roll of 85 Sheets	30	\$ 28.50
CORE-36	HEW001420	PAPER,HPMULTI PURPOSE LGL	RM	Ream	1	\$ 6.99
CORE-37	AAGPM428	CALENDAR,WALL,MLY,20X30	EA	Each	1	\$ 11.99
CORE-38	CLO35419CT	CLEANER,LEMN PNE SOL,3/CT	CT	144 OZ Bottle	3	\$ 27.90
CORE-39	VER99123	DRIVE,FLASH,16GB,SNG,4/PK	PK	Flash Drive	4	\$ 22.03
CORE-40	ERG21313	ERGODYNE 8230Z TYPE R CLASS 2	EA	Each	1	\$ 12.64
CORE-41	ERG21317	ERGODYNE 8230Z TYPE R CLASS 2	EA	Each	1	\$ 12.64
CORE-42	KMW72110	MOUSE,WIRED,BK	EA	Each	1	\$ 9.13
CORE-43	SMD76124	POCKET,FILE,3.5" EXP,LGL	BX	File	25	\$ 65.10
CORE-44	AVE74401	PROTECTOR,HVY,NGL	BX	Protector	200	\$ 18.88
CORE-45	SAN37001	MARKER,SHARPIE,ULTRAFN,BK	DZ	Marker	12	\$ 9.98
CORE-46	AAGPM328	CALENDAR,WALL,15.5X22.75	EA	Each	1	\$ 9.85
CORE-47	PIL84065	PEN,G2,FINE,36/TUB,BK	PK	Pen	36	\$ 54.05
CORE-48	EVEEN91	BATTERY,IDSTAA,24 EA=1BX	BX	Battery	24	\$ 5.80
CORE-49	BICWOTAP10	TAPE,CORRECTION,10/BX,WH	BX	472" Roll	10	\$ 16.10
CORE-50	INTENTIONALLY DELETED					
CORE-51	GOJ962504EA	SANITIZER,PURELL2LITER,CR	EA	Each	1	\$ 18.12
CORE-52	INTENTIONALLY DELETED					
CORE-53	QUA63561	ENVELOPE,DEPT,10X13,TIE	CT	Envelope	100	\$ 39.90
CORE-54	UNV84622	POUCH,LTR SZ,3MIL,100/BX	BX	Pouch	100	\$ 17.25
CORE-55	TOM68720	TAPE,CORRECT1/6,WE,10/PK	PK	394" Roll	10	\$ 19.55
CORE-56	MMM810P10K	TAPE,MAGIC,.75X1M,10RL,CR	PK	83.33 Ft. Roll	10	\$ 8.55
CORE-57	SMD10330	FOLDER,MLA,1/3 CUT,LTR	BX	Folder	100	\$ 15.97
CORE-58	HEWC1Q12AAZ	INKCART,HP727,300ML,MTBK	EA	Each	1	\$ 169.90
CORE-59	MAX648250	DISC,CD-R,700MB,SPND,50PK	PK	CD-R	50	\$ 7.21
CORE-60	SEL39093	MAILER,SS-BUBLE8.5X12GDBR	CT	Mailer	100	\$ 50.55
CORE-61	PMC05214	PAPER,THERMAL3.125X230,WE	CT	230 Ft. Roll	50	\$ 80.57
CORE-62	QRTG4836W	BOARD,4 X 3,GLSS MRKR,WH	EA	Each	1	\$ 141.31
CORE-63	SEL39094	MAILER,SS BUBBLE,8.5X14.5	CT	Mailer	100	\$ 81.03
CORE-64	ALEFAN363	FAN,TOWER,36",3 SPEED,BK	EA	Each	1	\$ 74.75
CORE-65	INTENTIONALLY DELETED					

Line Item #	SKU	Line Item Description	UM	"EACH" DESIGNATION	PACK SIZE	Net Price
CORE-66	PIL31021	PEN,RBALL,RT,G2,GEL,FN,BE	DZ	Pen	12	\$ 13.86
CORE-67	HEWCF283AAZ	TONER,F/HP83A,LJ,BK	EA	Each	1	\$ 65.50
CORE-68	FEL3227901	SHREDDER,PS79CI INTELLSHD	EA	Each	1	\$ 250.00
CORE-69	SHREL1197PIII	CALCULATOR,PRINT 12-DIGIT	EA	Each	1	\$ 88.00
CORE-70	HEWCE278AC	CRTDG,LJ,BK,ORIG 78A,MPS	EA	Each	1	\$ 59.85
CORE-71	BOS02210	STAPLER,ELECTRIC,BK	EA	Each	1	\$ 32.55
CORE-72	VER95102	DISC,DVD-R,4.7GB,100PK,SR	PK	DVD-R	100	\$ 25.65
CORE-73	PIL31256	PEN,G2, 1.0MM BOLD,BK	DZ	Pen	12	\$ 12.50
CORE-74	UNV86920PK	BOOK,STNO,GRG,80SH,6PK,GN	PK	Pad	6	\$ 9.99
CORE-75	EVEEN92	BATTERY,IDTAAA,24EA=1BX	BX	Battery	24	\$ 5.80
CORE-76	AVE5395	BADGE,SLFADHV,LSR,NME,WHT	BX	Badge	400	\$ 36.78
CORE-77	WBI242315C	BAG,7-10GL,TRSH BG,CLR	CT	Bag	500	\$ 36.45
CORE-78	BRTTZE2312PK	LABEL,1/2" BK/WHT,2PK	PK	26.2 Ft. Roll	2	\$ 24.44
CORE-79	GBC3748204EZ	FILM,3.0MIL GLOSS,2,CR	BX	250 Ft. Roll	2	\$ 114.35
CORE-80	GOJ965212CT	SANITIZER,HAND,PURELL,8OZ	CT	8 OZ	12	\$ 54.77
CORE-81	QRTSM534	BOARD,3' X 4',MAGNETIC,AL	EA	Each	1	\$ 106.61
CORE-82	AAGPM1228	CALENDAR,WALL,YEARLY	EA	Each	1	\$ 7.47
CORE-83	VER98703	DRIVE,8GB,FLASH,3/PK,RD	PK	Flash Drive	3	\$ 19.49
CORE-84	AAGSK2400	CALENDAR,DSK PD/WALL,BK	EA	Each	1	\$ 3.21
CORE-85	AAG70EP0305	BOOK,APT,PLNR,1PGDAILY,BK	EA	Each	1	\$ 40.01
CORE-86	PDC1058421	DUSTER,PERFECT II,10OZ	EA	Each	1	\$ 4.61
CORE-87	GBC3740474	POUCH,LAMINATING,MENU	BX	Pouch	100	\$ 115.42
CORE-88	BAL8574GM	DISPENSER,LENS CLNR,100BX	BX	Dispenser	100	\$ 10.20
CORE-89	SAF5124	FOOTREST,ADJ,INDUST,BK	EA	Each	1	\$ 109.65
CORE-90	APWP11U2	SURGE,ARRST,11-OUT	EA	Each	1	\$ 36.96
CORE-91	UNV96920PK	BOOK,STNO,GRG,80SH,6PK,WH	PK	Pad	6	\$ 11.99
CORE-92	SEL39095	MAILER,SS-BBL9.5X14.5GDBR	CT	Mailer	100	\$ 59.20
CORE-93	CLG3201576	CASE,LAPTOP,14.1",BK	EA	Each	1	\$ 29.99
CORE-94	INTENTIONALLY DELETED					
CORE-95	TOP7500	PAD,LGL,RULD,PERF,5X8,WE	DZ	Pad	12	\$ 3.90
CORE-96	HOD26202	BOOK,APT,14MO,8.5X11,BK	EA	Each	1	\$ 8.93
CORE-97	TOP8021	BOOK,STENO,GREGG,80SH,GN	EA	Each	1	\$ 0.99
CORE-98	MMMDL951	CARTRIDGE,DUAL LAMNTE,RFL	EA	Each	1	\$ 55.30
CORE-99	VER98425	DRIVE,16GB SWVL USB2P,GGN	PK	Flash Drive	2	\$ 12.42
CORE-100	MAX638014	DISC,DVD-R,100PK SPNL	PK	DVD-R	100	\$ 25.60
CORE-101	LOG920001996	KEYBOARD,WRLS,K350WAVE,BK	EA	Each	1	\$ 38.99
CORE-102	SAU11017	CLIPBOARD,9 3/16X13.75	EA	Each	1	\$ 20.82

Line Item #	SKU	Line Item Description	UM	"EACH" DESIGNATION	PACK SIZE	Net Price
CORE-103	BICGSM11BK	PEN,ROUND STIC,MED,BK	DZ	Pen	12	\$ 1.08
CORE-104	LOG910001822	MOUSE,WRLSS,M510,DRKGY	EA	Each	1	\$ 37.02
CORE-105	UNV76920	BOOK,STENO,GREGG,70SH,GN	EA	Each	1	\$ 0.99
CORE-106	TOM68627	TAPE,CORRECTION,MONO,2PK	PK	394" Roll	2	\$ 3.45
CORE-107	SMD26210	FOLDER,PSBD 2IN LTR,GG	BX	Folder	25	\$ 36.92
CORE-108	FALDSXLPW	CLEANER,DUST-OFF,10OZ,2PK	PK	Canister	2	\$ 14.69
CORE-109	INTENTIONALLY DELETED					
CORE-110	REARR3760	CLEANER,10OZ,DUSTER,6PK	PK	Canister	6	\$ 47.36
CORE-111	AAGPM1128	CALENDAR,3 MO WALL	EA	Each	1	\$ 13.14
CORE-112	SMD10339	FOLDER,LTR 11PT1/3REC,MLA	BX	Folder	100	\$ 19.33
CORE-113	GOJ645302	SANITIZER,FOAM,HAND,CLR	CT	1200 mL Dispaenser	2	\$ 99.99
CORE-114	FEL0063201	BOX,PRESTO 10X15X24,WHT	CT	File Box	12	\$ 104.38
CORE-115	QRTGDP186	BOARD,DKTP,DRIERS,18X6,WH	EA	Each	1	\$ 22.00
CORE-116	LOG910002650	MOUSE,WIRELSS,M325,BE	EA	Each	1	\$ 19.49
CORE-117	QUA37897	ENVELOPE,CSP10X13BRKR28#	BX	Envelope	100	\$ 8.34
CORE-118	HOD150HD	CALENDAR,DSKPD,MLY,22X17	EA	Each	1	\$ 6.18
CORE-119	TOP20172	PAD,RCY,1DZ/PK,8.5X11WHT	DZ	Pad	12	\$ 20.62
CORE-120	VER97005	DRIVE,64GB,USB FLASH,RD	EA	Each	1	\$ 13.16
CORE-121	QRT2304B	BOARD,4X3,CORK BUL,BKAL	EA	Each	1	\$ 49.65
CORE-122	SAF3271BL	TRAY,LETTER, TRIPLE,BK	EA	Each	1	\$ 27.50
CORE-123	AVE05741	BNDR,RNDR,8.5X11,3"WHT	EA	Each	1	\$ 3.44
CORE-124	QRTSM533B	BOARD,3' X 2',MAGNET,BKAL	EA	Each	1	\$ 62.49
CORE-125	BRTTZE241	LABEL,3/4" BK/WHT	EA	Each	1	\$ 8.08

Line Item #	SKU	Line Item Description	UM	"EACH" DESIGNATION	PACK SIZE	Net Price
CORE-126	TOP63960	PAD,LGL/LTR,20#,WE	PK	Pad	12	\$ 46.66
CORE-127	HOD124	CALENDAR,DESK,12 MO,22X17	EA	Each	1	\$ 2.75
CORE-128	SMD10334	FOLDER,MLA,1/3 CUT,LTR	BX	Folder	100	\$ 21.59
CORE-129	VER97086	DRIVE,USB,FLASH,2GB,BE	EA	Each	1	\$ 6.43
CORE-130	DCC10J10	CUP,10 OZ,FOAM,1M/CT,WHT	CT	Cup	1000	\$ 47.80
CORE-131	AVE09301	BNDR,SLNTRNG,11X8.5,1"WHT	EA	Each	1	\$ 4.15
CORE-132	AVE17575	BINDER,DURVW,1",4/PK,WH	PK	Binder	4	\$ 28.50
CORE-133	MMM655YW	NOTE,POST-IT,3X5,12/PK,YW	PK	Pad	12	\$ 4.69
CORE-134	SMD14075	FOLDER,6SEC,2/5C,LTR,RD	BX	Folder	10	\$ 29.90
CORE-135	QUA41467	ENVELOPE,CAT,9X12,28#BRKR	BX	Envelope	100	\$ 20.50
CORE-136	TOP20152	PAD,RCYL,1DZ/PK,5X8,WHT	DZ	Pad	12	\$ 10.22
CORE-137	PIL84066	PEN,G2,FINE,36/TUB,BE	PK	Pen	36	\$ 54.05
CORE-138	SMD74810	POCKET, LGL EXP 5-1/4	BX	Folder	50	\$ 88.00
CORE-139	SAN1926876	MARKER,FINE,RT,36/PK,BK	PK	Marker	36	\$ 70.01
CORE-140	MMM6549YW	NOTE,HLND,3X3,12/PK,YW	PK	Pad	12	\$ 2.37
CORE-141	TOM68721	TAPE,CORRECTION,WE,10/PK	PK	394" Roll	10	\$ 12.99
CORE-142	DEFM13233	CHAIRMAT,45X53LIP,BVL	EA	Each	1	\$ 31.44
CORE-143	AAG761105	BOOK,APP,8X97/8,WK/MN,BK	EA	Each	1	\$ 25.93
CORE-144	LOG920002553	KEYBOARD,WRLS DT,MK520,BK	EA	Each	1	\$ 48.75
CORE-145	CAS054907	PAPER,92 BRITE #20,WHT	CT	Ream	5	\$ 57.10
CORE-146	AAG760105	BOOK,QUIKNOT MLYWKLY,8X10	EA	Each	1	\$ 18.25
CORE-147	SAN30002	MARKER,SHARPIE,FINE PT,RD	DZ	Marker	12	\$ 9.99
CORE-148	AVE05711	BNDR,RNDR,8.5X11,1"WHT	EA	Each	1	\$ 1.19

Line Item #	SKU	Line Item Description	UM	"EACH" DESIGNATION	PACK SIZE	Net Price
CORE-149	MMM35006	TAPE,PACKAGE SUPR 6PK,CR	PK	54.6 YD Roll	6	\$ 26.10
CORE-150	DEF587501	NAMEPLATE,HDLR,CUBCLE,CLR	EA	Each	1	\$ 3.90

EXHIBIT C
MESA STANDARD TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR.** It is expressly understood that the relationship of Contractor to the City will be that of an independent contractor. Contractor and all persons employed by Contractor, either directly or indirectly, are Contractor's employees, not City employees. Accordingly, Contractor and Contractor's employees are not entitled to any benefits provided to City employees including, but not limited to, health benefits, enrollment in a retirement system, paid time off or other rights afforded City employees. Contractor employees will not be regarded as City employees or agents for any purpose, including the payment of unemployment or workers' compensation. If any Contractor employees or subcontractors assert a claim for wages or other employment benefits against the City, Contractor will defend, indemnify and hold harmless the City from all such claims.
2. **SUBCONTRACTING.** Contractor may not subcontract work under this Agreement without the express written permission of the City. If Contractor has received authorization to subcontract work, it is agreed that all subcontractors performing work under the Agreement must comply with its provisions. Further, all agreements between Contractor and its subcontractors must provide that the terms and conditions of this Agreement be incorporated therein.
3. **ASSIGNMENT.** This Agreement may not be assigned, either in whole or in part, without first receiving the City's written consent. Any attempted assignment, either in whole or in part, without such consent will be null and void and in such event the City will have the right, at its option, to terminate the Agreement. No granting of consent to any assignment will relieve Contractor from any of its obligations and liabilities under the Agreement.
4. **SUCCESSORS AND ASSIGNS, BINDING EFFECT.** This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.
5. **NO THIRD-PARTY BENEFICIARIES.** This Agreement is intended for the exclusive benefit of the parties. Nothing set forth in this Agreement is intended to create, or will create, any benefits, rights, or responsibilities in any third parties.
6. **NON-EXCLUSIVITY.** The City, in its sole discretion, reserves the right to request the materials or services set forth herein from other sources when deemed necessary and appropriate. No exclusive rights are encompassed through this Agreement.
7. **AMENDMENTS.** There will be no oral changes to this Agreement. This Agreement can only be modified in a writing signed by both parties. No charge for extra work or material will be allowed unless approved in writing, in advance, by the City and Contractor.
8. **TIME OF THE ESSENCE.** Time is of the essence to the performance of the parties' obligations under this Agreement.
9. **COMPLIANCE WITH APPLICABLE LAWS.**
 - a. **General.** Contractor must procure all permits/licenses and pay all charges and fees necessary and incidental to the lawful conduct of business. Contractor must stay fully informed of existing and future federal, state, and local laws, ordinances, and regulations that in any manner affect the fulfillment of this Agreement and must comply with the same at its own expense. Contractor bears full responsibility for training, safety, and providing necessary equipment for all Contractor personnel to achieve compliance throughout the term of the Agreement. Upon request, Contractor will demonstrate to the City's satisfaction any programs, procedures, and other activities used to ensure compliance.
 - b. **Drug-Free Workplace.** Contractor is hereby advised that the City has adopted a policy establishing a drug-free workplace for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor will require a drug-free workplace for all Contractor personnel working under this Agreement. Specifically, all Contractor personnel who are working under this Agreement must be notified

in writing by Contractor that they are prohibited from the manufacture, distribution, dispensation, possession, or unlawful use of a controlled substance in the workplace. Contractor agrees to prohibit the use of intoxicating substances by all Contractor personnel and will ensure that Contractor personnel do not use or possess illegal drugs while in the course of performing their duties.

- c. **Federal and State Immigration Laws.** Contractor agrees to comply with the Immigration Reform and Control Act of 1986 (IRCA) in performance under this Agreement and to permit the City and its agents to inspect applicable personnel records to verify such compliance as permitted by law. Contractor will ensure and keep appropriate records to demonstrate that all Contractor personnel have a legal right to live and work in the United States.
 - i. As applicable to Contractor, under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter collectively the “Contractor Immigration Warranty”).
 - ii. A breach of the Contractor Immigration Warranty will constitute a material breach of this Agreement and will subject Contractor to penalties up to and including termination of this Agreement at the sole discretion of the City.
 - iii. To ensure Contractor and its subcontractors are complying with the Contractor Immigration Warranty, the City retains the legal right to conduct random verification of the employment records of any Contractor or subcontractor employee who works on this Agreement, including the inspection of the papers of such employees. Contractor agrees to assist the City in regard to any random verification performed.
 - iv. Neither Contractor nor any subcontractor will be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by Sections 274a and 274b of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214(A).
- d. **Nondiscrimination.** Contractor understands and acknowledges that it is the policy of the City of Mesa to promote non-discrimination. As such, Contractor represents and warrants that it does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, national origin, age, disability, religion, sex, sexual orientation, gender identity and expression, veterans’ status, marital status, or genetic information, and represents and warrants that it complies with all applicable federal, state, and local laws and executive orders regarding employment. In performance under this Agreement, Contractor and Contractor’s personnel will comply with applicable provisions of the following laws (as amended): Title VII of the U.S. Civil Rights Act of 1964, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*), and any other applicable non-discrimination laws and rules.
- e. **State Sponsors of Terrorism Prohibition.** Per A.R.S. § 35-392, Contractor must not be in violation of section 6(j) of the Federal Export Administration Act and subsequently prohibited by the State of Arizona from selling goods or services to the City.
- f. **Israel Boycott Divestments.** In accordance with the requirements of A.R.S. § 35-393.01, if the Agreement requires Contractor to acquire or dispose of services, supplies, information technology or construction with a value of \$100,000 or more, then, by entering into this Agreement, Contractor certifies that it is not currently engaged in, and agrees for the duration of the Agreement to not engage in, a boycott of goods and services from Israel.

10. **SALES/USE TAX, OTHER TAXES.**
 - a. Contractor is responsible for the payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's services under this Agreement including, by way of illustration but not limitation, federal and state income tax, Social Security tax, unemployment insurance taxes, and any other taxes or business license fees, as required. If any taxing authority should deem Contractor or Contractor employees an employee of the City, or should otherwise claim the City is liable for the payment of taxes that are Contractor's responsibility under this Agreement, then Contractor will indemnify the City for any tax liability, interest, and penalties imposed upon the City.
 - b. The City is exempt from paying certain federal excise taxes and will furnish an exemption certificate upon request. The City is not exempt from state and local sales/use taxes.
11. **AMOUNTS DUE THE CITY.** Contractor must be current and remain current in all obligations, whether or not related to the Agreement, due to the City during the performance of services under the Agreement. Payments to Contractor may be offset by any delinquent amounts due the City or fees and charges owed to the City.
12. **PUBLIC RECORDS.** Contractor acknowledges that the City is a public body, subject to Arizona's public records laws (A.R.S. § 39-121 *et seq.*) and any documents related to this Agreement may be subject to disclosure pursuant to state law in response to a public records request or to subpoena or other judicial process.
 - a. If Contractor believes documents related to the Agreement contain trade secrets or other proprietary data, Contractor must have notified the City pursuant to Mesa Procurement Rules Section 2.1 or notified the City with a notification statement specifically identifying the trade secrets or other proprietary data that Contractor believes should remain confidential.
 - b. In the event the City determines it is legally required to disclose pursuant to law any documents or information Contractor deems confidential trade secrets or proprietary data, the City, to the extent possible, will provide Contractor with prompt written notice by certified mail, fax, email or other method that tracks delivery status of the requirement to disclose the information so Contractor may seek a protective order from a court having jurisdiction over the matter or obtain other appropriate remedies. The notice will include a time period for Contractor to seek court ordered protection or other legal remedies as deemed appropriate by Contractor. If Contractor does not obtain such court ordered protection by the expiration of said time period, the City may release the information without further notice to Contractor.
13. **AUDITS AND RECORDS.** Contractor must preserve the records related to this Agreement for six (6) years after completion of the Agreement. The City or its authorized agent reserves the right to inspect any records related to the performance of work specified herein. In addition, the City may inspect all payroll, billing or other relevant records kept by Contractor in relation to the Agreement. Contractor will permit such inspections and audits during normal business hours and upon reasonable notice by the City. The audit of records may occur at Contractor's place of business or at City offices, as determined by the City.
14. **BACKGROUND CHECK.** In accordance with the City's current background check policies, the City may conduct criminal, driver history, and all other requested background checks of Contractor personnel who would perform services under the Agreement who will have access to the City's information, data, or facilities. Any officer, employee, or agent that fails the background check must be replaced immediately for any reasonable cause not prohibited by law.
15. **SECURITY CLEARANCE AND REMOVAL OF CONTRACTOR PERSONNEL.** The City will have final authority, based on security reasons: (i) to determine when security clearance of Contractor personnel is required; (ii) to determine the nature of the security clearance, up to and including fingerprinting Contractor personnel; and (iii) to determine whether any individual or entity may provide services under this Agreement. If the City objects to any Contractor personnel for any

reasonable cause not prohibited by law, then Contractor will, upon notice from the City, remove any such individual from performance of services under this Agreement.

16. **DEFAULT.**

- a. A party will be in default of the Agreement if that party:
 - i. Is or becomes insolvent or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's capability to perform under the Agreement;
 - ii. Is the subject of a petition for involuntary bankruptcy not removed within sixty (60) calendar days;
 - iii. Conducts business in an unethical manner as set forth in the City Procurement Rules Article 7 or in an illegal manner; or
 - iv. Fails to carry out any term, promise, or condition of the Agreement.
- b. Contractor will be in default of this Agreement if Contractor is debarred from participating in City procurements and solicitations in accordance with Article 6 of the City's Procurement Rules.
- c. **Notice and Opportunity to Cure.** In the event a party is in default then the other party will provide written notice to the defaulting party of the default. The defaulting party will have thirty (30) days from receipt of the notice to cure the default, unless the default is of a nature that it is reasonably anticipated to affect the health, safety or welfare of the public and, in such an event, the non-defaulting party may require a minimum seven (7) days to cure the default from the date of receipt of the notice; the cure period may be extended by mutual agreement of the parties, but no cure period may exceed ninety (90) days. A default notice will be deemed to be sufficient if it is reasonably calculated to provide notice of the nature and extent of such default. Failure of the non-defaulting party to provide notice of the default does not waive any rights under the Agreement. Failure of the defaulting party to cure the default will entitle the non-defaulting party to the election of remedies specific to the party as set forth in section 17 below.
- d. **Anticipatory Repudiation.** Whenever the City in good faith has reason to question Contractor's intent or ability to perform, the City may demand that Contractor give a written assurance of its intent and ability to perform. In the event demand is made and no written assurance is given within ten (10) calendar days, the City may treat this failure as an anticipatory repudiation of the Agreement entitling the City to terminate the Agreement in accordance with section 17(a) below.

17. **REMEDIES.** The remedies set forth in this Agreement are not exclusive. Election of one remedy will not preclude the use of other remedies. In the event of default:

- a. The non-defaulting party may terminate the Agreement, and the termination will be effective immediately or at such other date as specified by the terminating party.
- b. The City may purchase the services or materials required under the Agreement from the open market, complete required work itself, or have it completed at the expense of Contractor. If the cost of obtaining substitute services exceeds the contract price in the Agreement, the City may recover the excess cost by: (i) requiring immediate reimbursement by the Contractor to the City; (ii) deduction from an unpaid balance due to Contractor; (iii) collection against the proposal and performance security, if any; (iv) collection against liquidated damages (if applicable); or (v) a combination of the aforementioned remedies or other remedies as permitted by law. Costs in this Subsection (b) include any and all, fees, and expenses incurred in obtaining substitute services and expended in obtaining reimbursement including, but not limited to, administrative expenses, attorneys' fees, and costs.
- c. The non-defaulting party will have all other rights granted under this Agreement and all rights at law or in equity that may be available to it.

- d. Neither party will be liable for incidental, special, or consequential damages.
18. **CONTINUATION DURING DISPUTES.** Contractor agrees that during any dispute between the parties, Contractor will continue to perform its obligations until the dispute is settled, instructed to cease performance by the City, enjoined or prohibited by judicial action, or otherwise required or obligated to cease performance by other provisions in this Agreement.
19. **TERMINATION FOR CONVENIENCE.** The City reserves the right to terminate this Agreement, in part or in whole, for its sole convenience upon thirty (30) calendar days' written notice. Contractor acknowledges that, as with any termination permitted under this Agreement, in the event of a termination for convenience, Contractor is only entitled to payment in accordance with section 22 (Payment to Contractor Upon Termination); Contractor will not be entitled to any anticipated lost profits had the Agreement been performed to completion.
20. **TERMINATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511).** Pursuant to A.R.S. § 38-511, the City may cancel this Agreement within three (3) years after its execution, without penalty or further obligation, if any person significantly involved in initiating, securing, drafting, or creating the Agreement for the City becomes an employee or agent of Contractor.
21. **TERMINATION FOR NON-APPROPRIATION AND MODIFICATION FOR BUDGETARY CONSTRAINT.** The City is a governmental agency which relies upon the appropriation of funds by its governing body to satisfy its obligations. If the City reasonably determines it does not have funds to meet its obligations under this Agreement, the City will have the right to terminate the Agreement without penalty on the last day of the fiscal period for which funds were legally available. In the event of such termination, the City agrees to provide written notice of its intent to terminate thirty (30) calendar days prior to the stated termination date.
22. **PAYMENT TO CONTRACTOR UPON TERMINATION.** Upon termination of this Agreement for any reason, Contractor will be entitled only to payments authorized under the Agreement for those services performed or materials provided in accordance with the Agreement up to the date of termination, and any authorized expenses already incurred up to such date of termination. The City will make final payment within thirty (30) calendar days after the City has both completed its appraisal of the materials and services provided and received Contractor's properly prepared final invoice.
23. **NON-WAIVER OF RIGHTS.** There will be no waiver of any provision of this Agreement unless approved in writing and signed by the waiving party. Failure or delay to exercise any rights or remedies provided herein or by law or in equity, or the acceptance of, or payment for, any services hereunder, will not release the other party of any of the warranties or other obligations of the Agreement and will not be deemed a waiver of any such rights or remedies.
24. **INDEMNIFICATION; LIABILITY.**
- a. To the fullest extent permitted by law, Contractor agrees to defend, indemnify and hold harmless the City, its elected officials, agents, representatives and employees (collectively, including the City, "City Personnel") from and against any and all liabilities, demands, claims, suits, penalties, obligations, losses, damages, causes of action, fines or judgments of any kind, including costs, attorneys', witnesses' and expert witnesses' fees, and expenses incident thereto (all of the foregoing, collectively "Claims") imposed upon or asserted against City Personnel by a third party relating to, arising out of or resulting from, in whole or in part: (i) services or materials provided under this Agreement by Contractor or its officers', agents', or employees' (collectively, including Contractor, "Contractor Personnel"); (ii) negligent acts, errors, mistakes or omissions of Contractor Personnel; or (iii) failure of Contractor Personnel to comply with or fulfill the obligations established by this Agreement. Contractor's indemnification, duty to defend and hold harmless City Personnel in this Subsection (a) will apply to all Claims against City Personnel except Claims arising solely from the negligence or intentional acts of City Personnel.
- b. The City assumes no liability for the actions of Contractor Personnel and will not indemnify or hold Contractor Personnel or any third party harmless for Claims relating to, arising out of or

resulting from, in whole or in part, this Agreement or use of Contractor Personnel-provided services or materials.

25. **WARRANTY.** Contractor warrants that the services and materials will conform to the requirements of the Agreement. Additionally, Contractor warrants that all services will be performed in a good, workman-like and professional manner. The City's acceptance of services or materials provided by Contractor will not relieve Contractor from its obligations under this warranty. If the City reasonably determines any materials or services are of a substandard or unsatisfactory manner, Contractor, at no additional charge to the City, will provide materials or redo such services until in accordance with this Agreement and to the City's reasonable satisfaction.

Unless otherwise agreed, Contractor warrants that materials will be new, unused, of most current manufacture and not discontinued, will be free of defects in materials and workmanship, will be provided in accordance with manufacturer's standard warranty for at least one (1) year unless otherwise specified, and will perform in accordance with manufacturer's published specifications.

26. **THE CITY'S RIGHT TO RECOVER AGAINST THIRD PARTIES.** Contractor will do nothing to prejudice the City's right to recover against third parties for any loss, destruction, or damage to City property and will, at the City's request and expense, furnish to the City reasonable assistance and cooperation in obtaining recovery, including assistance in the prosecution or defense of suit and the execution of instruments of assignment in favor of the City.
27. **NO GUARANTEE OF WORK.** Contractor acknowledges and agrees: (i) it is not entitled to deliver any specific amount of materials or services, or any materials or services at all, under this Agreement; and (ii) the materials or services will be requested by the City on an as needed basis, at the sole discretion of the City. Any document referencing quantities or performance frequencies represent the City's best estimate of current requirements, but will not bind the City to purchase, accept, or pay for materials or services which exceed its actual needs.
28. **OWNERSHIP.** All deliverables, services, and information provided by Contractor or the City pursuant to this Agreement (whether electronically or manually generated) including without limitation, reports, test plans, and survey results, graphics, and technical tables, originally prepared in the performance of this Agreement, are the property of the City and will not be used or released by Contractor or any other person except with prior written permission by the City.
29. **USE OF NAME.** Contractor will not use the name of the City of Mesa in any advertising or publicity without obtaining the prior written consent of the City.
30. **PROHIBITED ACTS.** Contractor acknowledges the applicability of A.R.S. § 38-504 which prohibits a person who, within the preceding twelve (12) months, is or was a public officer or employee of the City from representing another person (including Contractor) before the City on any matter for which the officer or employee was directly concerned and personally participated in during their service or employment by a substantial and material exercise of administrative discretion. Further, while employed by the City and for two (2) years thereafter, public officers or employees are prohibited from disclosing or using, without appropriate authorization, any confidential information acquired by such person in the course of his or her official duties at the City.
31. **FOB DESTINATION FREIGHT PREPAID AND ALLOWED.** All deliveries will be FOB destination freight prepaid and allowed unless otherwise agreed.
32. **RISK OF LOSS.** Contractor agrees to bear all risk of loss, injury, or destruction of Contractor's goods or equipment incidental to Contractor providing the services and materials under this Agreement and such loss, injury, or destruction will not release Contractor from any obligation hereunder.
33. **SAFEGUARDING CITY PROPERTY.** Contractor will be responsible for any damage or loss to City real or personal property when such property is the responsibility of or in the custody of Contractor or its personnel.

34. **WARRANTY OF RIGHTS.** Contractor warrants it has title to, or the right to allow the City to use, the materials and services being provided and that the City may use same without suit, trouble or hindrance from Contractor or third parties.
35. **PROPRIETARY RIGHTS INDEMNIFICATION.** Without limiting the warranty in section 34, Contractor will without limitation and at its expense defend the City against all claims asserted by any person that anything provided by Contractor infringes a patent, copyright, trade secret or other intellectual property right and must, without limitation, pay the costs, damages and attorneys' fees awarded against the City in any such action, or pay any settlement of such action or claim. Each party agrees to notify the other promptly of any matters to which this provision may apply and to cooperate with each other in connection with such defense or settlement. If a preliminary or final judgment is obtained against the City's use or operation of the items provided by Contractor hereunder or any part thereof by reason of any alleged infringement, Contractor will, at its expense and without limitation, either: (a) modify the item so that it becomes non-infringing; (b) procure for the City the right to continue to use the item; (c) substitute for the infringing item other item(s) having at least equivalent capability; or (d) refund to the City an amount equal to the price paid, less reasonable usage, from the time of installation acceptance through cessation of use, which amount will be calculated on a useful life not less than five (5) years, plus any additional costs the City may incur to acquire substitute supplies or services.
36. **CONTRACT ADMINISTRATION.** The contract will be administered by the applicable Purchasing Officer and/or an authorized representative from the using department (collectively "Contractor Administrators"); all questions regarding the Agreement will be referred to the Contract Administrators. If authorized by the Contract Administrators, supplements or amendments may be written to the Agreement for the addition or deletion of services. Payment will be negotiated and determined by the Contract Administrators.
37. **FORCE MAJEURE.** Failure by either party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control, including acts of nature, acts of the public enemy, riots, fire, explosion, legislation, and governmental regulation. The party whose performance is so affected will, within five (5) calendar days of the unforeseeable circumstance, notify the other party of all pertinent facts and identify the force majeure event. The party whose performance is so affected must also take all reasonable steps, promptly and diligently, to prevent such causes if it is feasible to do so or to minimize or eliminate the effect thereof. The delivery or performance date will be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay, provided however, under no circumstances will delays caused by a force majeure extend beyond one hundred-twenty (120) calendar days from the scheduled delivery or completion date of a task unless agreed upon by the parties.
38. **COOPERATIVE USE OF CONTRACT.** The City has entered into various cooperative purchasing agreements with other Arizona government agencies, including the Strategic Alliance for Volume Expenditures (SAVE) cooperative. Under the SAVE Cooperative Purchasing Agreement, any contract may be extended for use by other municipalities, school districts and government agencies in the State of Arizona with the approval of Contractor. Any such usage by other entities must be in accordance with the statutes, codes, ordinances, charter and/or procurement rules and regulations of the respective government agency.

The City currently holds or may enter into Intergovernmental Governmental Agreements (IGA) with numerous governmental entities. These agreements allow the entities, with the approval of Contractor, to purchase their requirements under the terms and conditions of this Agreement.

A contractor, subcontractor or vendor or any employee of a contractor, subcontractor or vendor who is contracted to provide services on a regular basis at an individual school shall obtain a valid fingerprint clearance card pursuant to title 41, chapter 12, article 3.1. A school district governing board shall adopt policies to exempt a person from the requirements of this subsection if the person's normal job duties are not likely to result in independent access to or unsupervised contact

with pupils. A school district, its governing board members, its school council members and its employees are exempt from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to this subsection unless the school district, its governing board members, its school council members or its employees are guilty of gross negligence or intentional misconduct.

Additionally, Contractor will comply with the governing body's fingerprinting policy of each individual school district and public entity. Contractor, subcontractors, vendors and their employees will not provide services on school district properties until authorized by the school district.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The City is not responsible for any disputes arising out of transactions made by others.

39. **FUEL CHARGES AND PRICE INCREASES.** No fuel surcharges will be accepted. No price increases will be accepted without proper request by Contractor and response by the City's Purchasing Division.
40. **NOTICES.** All notices to be given pursuant to this Agreement must be delivered to the parties at their respective addresses. Notices may be sent via personally delivery, certified or registered mail with postage prepaid, overnight courier, or facsimile. If provided by personal delivery, receipt will be deemed effective upon delivery. If sent via certified or registered mail, receipt will be deemed effective three (3) calendar days after being deposited in the United States mail. If sent via overnight courier, or facsimile, receipt will be deemed effective two (2) calendar days after the sending thereof.
41. **GOVERNING LAW, FORUM.** This Agreement is governed by the laws of the State of Arizona. The exclusive forum selected for any proceeding or suit, in law or equity, arising from or incident to this Agreement will be Maricopa County, Arizona.
42. **INTEGRATION CLAUSE.** This Agreement, including all attachments and exhibits hereto, supersede all prior oral or written agreements, if any, between the parties and constitutes the entire agreement between the parties with respect to the work to be performed.
43. **PROVISIONS REQUIRED BY LAW.** Any provision required by law to be in this Agreement is a part of this Agreement as if fully stated herein.
44. **SEVERABILITY.** If any provision of this Agreement is declared void or unenforceable, such provision will be severed from this Agreement, which will otherwise remain in full force and effect. The parties will negotiate diligently in good faith for such amendment(s) of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.
45. **SURVIVING PROVISIONS.** Notwithstanding any completion, termination, or other expiration of this Agreement, all provisions which, by the terms of reasonable interpretation thereof, set forth rights and obligations that extend beyond completion, termination, or other expiration of this Agreement, will survive and remain in full force and effect. Except as specifically provided in this Agreement, completion, termination, or other expiration of this Agreement will not release any party from any liability or obligation arising prior to the date of termination.
46. **A.R.S. SECTIONS 1-501 and 1-502.** Pursuant to A.R.S §§ 1-501 and 1-502, any person who applies to the City for a local public benefit (the definition of which includes a grant, contract or loan) must demonstrate his or her lawful presence in the United States. As this Agreement is deemed a local public benefit, if Contractor is an individual (natural) person or sole proprietorship, Contractor agrees to sign and submit the necessary documentation to prove compliance with the statutes if applicable.

47. **AUTHORITY.** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each is properly authorized and empowered to enter into the Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.
48. **UNIFORM ADMINISTRATIVE REQUIREMENTS.** By entering into this Agreement, the Contractor agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 et seq.
49. **PCI DSS COMPLIANCE.** In the event any Contractor engages in payment card transactions as a part of the services provided to the City, Contractor shall comply with the Payment Card Industry Data Security Standards (“PCI DSS”) and any amendments or restatements of the PCI DSS during the Term of this Agreement. Contractor accepts responsibility for the security of the City’s and/or any customer’s credit card data in its possession, even if all or a portion of the services to City are subcontracted to third parties.

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EASiBuy LLC (“EASi”).

SUPPLIER AGREEMENT TERMS AND CONDITIONS

EASiBuy LLC (“EASi”) does not verify or validate any buyer information provided or representations made by users on the Solution, and makes no warranty of any kind to you concerning any buyer offerings using the Solution. You acknowledge EASi, its employees, agents and partners make no warranty of any kind, either express or implied, regarding the quality, accuracy or validity of any data and information available on the Solution, or residing or passing through its network, other than information and data that is provided directly to you from EASi. You further acknowledge any agreement entered into by you as the supplier of goods or services from a participating buyer is an agreement solely with such buyer, and EASi is in no way a party to or responsible for the performance of such agreement. Therefore: 1) EASi DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, RELATING TO ANY TRANSACTION ENTERED INTO BETWEEN A PARTICIPATING PERSON OR ENTITY AND A SUPPLIER, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR INTENDED USE, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; AND 2) EASi FURTHER DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, CONCERNING INFORMATION SUPPLIED, OR REPRESENTATIONS MADE, BY ANY BUYER, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION RELATING TO PRODUCT SUITABILITY, SPECIFICATIONS, OR REQUESTED AVAILABILITY, OR THE TRUTHFULNESS OR ACCURACY OF ANY OTHER INFORMATION OR REPRESENTATION MADE OR SUPPLIED BY A BUYER OR ANY OTHER SUPPLIER INVOLVED IN THIS AGREEMENT.

BY YOUR SIGNATURE BELOW, AND BY SUBSEQUENTLY USING THE SOLUTION, YOU AGREE TO COMPLY WITH ALL TERMS AND CONDITIONS SET FORTH BELOW AND WITH ALL INSTRUCTIONS FOR USE POSTED ON THE SOLUTION.

READ THIS AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE SIGNING. BY SIGNING, YOU WILL BE PERMITTED TO UTILIZE THE EASIBUY LLC (“EASi”) INTERNET-BASED STRATEGIC SOURCING SOLUTION (“SOLUTION”) FOR THE PURPOSE OF PARTICIPATING IN THIS ONE-TIME, ON-LINE BIDDING EVENT. YOU WILL BE ALLOWED TO RECEIVE REQUESTS FOR INFORMATION AND QUOTATIONS AND TO SUBMIT BIDS AND PROPOSALS NECESSARY IN PARTICIPATING IN THE ONLINE BIDDING EVENT. SHOULD YOU CHOOSE NOT TO SIGN AND RETURN THIS AGREEMENT PRIOR TO THE ON-LINE BIDDING EVENT, YOU WILL BE DENIED ACCESS TO THE SOLUTION AND THE BIDDING EVENT.

1. Utilization. You are granted a one-time, non-transferable, non-exclusive right to access the Solution through EASiBuy website by the use of a password(s) and/or access code(s) for the purpose of participating in a specific electronic online bid auction event. Any subsequent rights to access the Solution will require you to accept a new “Supplier Agreement Terms and Conditions”. EASi reserves the right to terminate your access to the Solution

or any of its services at any time, if EASi shall determine, in its sole discretion, that you have violated any term(s) of this Agreement with respect to your access to and use of the Solution. In the event of such termination, EASi shall notify you immediately.

2. Responsibilities of the Parties. Subject to the terms and conditions of this Agreement, EASi will make available to you electronic access and use of the Solution for you to participate in a one-time, online bidding event. EASi will also provide such other assistance in the way of customer support and service as are set forth below. It is solely your responsibility when using the Solution to comply with all applicable local, state and federal statutes, ordinances, regulations, and policies governing the sales of goods or services by your company. EASi shall have no responsibility for ensuring sales of goods or services using the Solution will comply with such laws, ordinances, regulations, or policies. The Supplier, in using the system, has the responsibility for the sale including, but not limited to, the following:

- Accepting the terms and conditions of this agreement as contained in the Bid Package not less than 3 business days in advance of a scheduled event
- Selecting appropriate procurement opportunities to participate
- Preparing and assuring the completeness of any bids, quotes or proposals
- Submitting any bids, quotes or proposals electronically within the buyer established deadlines
- Maintaining with the Buyer, the security and the integrity of the bid procurement process
- Participating in any Pre-bid Conference(s) and telephonic tutorial for suppliers prior to an electronic event
- Compliance with all applicable legal requirements
- Establishing and adhering to the terms and conditions of buyer contracts
- Assuring proper authorization to enter into a contract and the proper administration of any resulting contract

As a supplier, you also acknowledge that EASi’s responsibilities are, but not limited to, the following:

- Clarifying bidding processes and timelines
- Hosting telephone tutorials with all suppliers on utilization of the electronic bid process
- Participating in any Pre-bid Conference(s)
- Conducting the electronic bid event and providing help desk support during the event
- Publishing appropriate results to the users and obtaining feedback from participants

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EASiBuy LLC (“EASi”).

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3. Conduit Services Only. The Solution provides only an Internet conduit through which the following may take place: (a) you may communicate the availability of your goods and services to potential buyers, (b) potential buyers may communicate their procurement needs to you and (c) you may respond to requests for quotations, bids or proposals in online bidding events. You will be entitled only to respond to requests of potential buyers for quotations, bids or proposals if you have accepted the terms and conditions of the Supplier Agreement. EASi makes no representation of any kind concerning the reputation, reliability or any other matter concerning participating buyers. EASi recommends you conduct your own inquiries concerning the qualifications and reputation of buyers, and you must look only to the buyers with whom you choose to transact business for performance of any agreements with them.

4. Buyer Representations and Warranties. EASi does not verify the information supplied or representations made by buyers on the Solution and makes no warranty of any kind to you concerning any buyer using the Solution. EASi recommends you look solely to the buyer with respect to any buyer-related information, representations and warranties.

5. Coded Access. Participation in the online bid event is available only to persons and entities who have read and agreed to the terms of this Agreement and who have been assigned access code(s) and/or password(s). You agree not to divulge your access codes or passwords to any other person or entity. EASi is not responsible for such unauthorized use of the Solution.

6. Availability and Operation of the Solution. While every effort will be made to keep the Solution operating during all scheduled hours of operation, no guarantee of uninterrupted operation can be given. You agree the services provided on the Solution are provided as is and that neither you nor your business will have any claim against EASi as a result of any non-availability of the Solution at a particular time or times or any failure of the Solution to operate as intended.

7. Sole Remedy. If you are dissatisfied with the functionality of this Solution or the services EASi provides, your sole remedy is to cease using the Solution. YOU AGREE THAT YOU HAVE, AND WILL HAVE, NO CLAIM OR RIGHT OF ACTION OF ANY KIND AGAINST EASi RELATED TO YOUR USE OF THE SOLUTION.

8. Virus. You hereby agree EASi will not be liable for any harm that may be caused by the inadvertent or deliberate transmission of any malicious computer software, or such other computer program transmitted through its website from a third party.

9. Information You Provide. You agree any information you provide about yourself or your agents when registering to use the Solution is accurate, current and complete and you will maintain and update that information to

ensure that it remains as such. If EASi suffers any claim or incurs any liability as a result of information entered into the Solution by users of your account, you and your business will indemnify EASi against such claim or liability including costs and attorneys fees incurred in defending against it.

10. Security. EASi uses industry-standard security measures to safeguard any information you may provide to us on our website. You, your organization and/or your agents have the responsibility to manage your internal security by safeguarding passwords and establishing your own internal security procedures, to assure the proper use of the Solution. In the event of any compromise in the security of the Solution, you agree to immediately report the same to EASi and a new password will be assigned for your use. EASi does not and cannot guarantee that information will remain secure.

11. Fees. The design, maintenance and operation of the Solution requires substantial costs and investment by EASi. Thus, a transaction fee (“Transaction Fee”) based on the total final purchase price stated upon award will be charged to the awarded supplier. The Transaction Fee for specific products and services for each event shall be owed by you and your company upon the execution of each awarded sale resulting from your submission of any request for quotations through this Solution. You hereby acknowledge that once you have viewed or received a request for quotation through or as a result of the Solution, and submitted an initial quotation of which a sale has ultimately been consummated as a result thereof, whether or not consummated through the Solution or other forms of bids or negotiations, you are obligated to pay the Transaction Fee to EASi if you are the awarded supplier. Said Fee will be assessed to the awarded supplier as follows.

Awarded Supplier Reporting and Payment Terms and Conditions: The Awarded Supplier will be responsible to pay the Transaction Fee of three quarters of one (0.75%) percent to EASi for all payments received from the Buyer, any of its political subdivisions or any other entity (the “Buying Agent”) resulting from this bidding event or subsequent contract.

Upon notification of award from the Buyer, the Awarded Supplier is required to provide ACH, credit card account payment information, or invoice billing details (“Preferred Transaction Fee Payment Method”) to EASi. Awarded Suppliers paying via credit card will be charged an additional credit card processing fee of 3% of the Transaction Fee. EASi will charge the Awarded Supplier via the Preferred Transaction Fee Payment Method based on the terms below:

Term Purchases: For Term or ongoing purchases, Awarded Supplier is required to enter into the Solution all Buying Agent payments received (the “Payment” or “Payments”) and details of the items, quantities and prices associated with those Payment(s) received within ten (10) days of the end of each month. If Awarded Supplier fails to enter Buying Agent payment information by the 10th of the month EASi will charge to Supplier’s Preferred Transaction Fee Payment Method an amount equal to one month of the

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EASiBuy LLC (“EASi”).

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overall contract value estimated by the Buying Agent times the Transaction Fee percentage. The Transaction Fee will be charged to your Preferred Transaction Fee Payment Method on the fifteenth of each month.

Audit Right: the Buying Agent and EASi reserve the right to audit the accuracy of the Transaction Fees. Audits shall be conducted during regular business hours, upon not less than fifteen (15) business day’s prior written notice, and in such a manner as not to unreasonably interfere with the Awarded Supplier’s normal business activities. Transaction Fees will be due immediately for any errors or omissions disclosed by any such audit. If, as a result of any such audit, Transaction Fees are determined to have been underpaid by more than five percent (5%) for the period audited, Awarded Supplier shall pay for the costs of such audit.

12. Disclosures. You acknowledge by using the Solution, you agree to provide EASi accurate and complete information regarding (a) any agreement entered into by you with a participating buyer through or as a result of any online bidding event conducted through the Solution; (b) the final price agreed upon between you and the participating buyer with respect to the product or service sold to such buyer, and (c) the date payment (whether a payment in full or a partial or installment payment) is delivered to you by any buyer pursuant to any agreement entered into by you with a participating buyer through or as a result of any online bidding event conducted through the Solution. You understand and acknowledge you are to provide this information to EASi immediately upon becoming aware of such information and EASi relies upon your delivery of such information for the calculation and payment of its fees as set forth in Section 11.

You acknowledge and agree the buyers conducting online bidding events through the Solution may be governmental or quasi-governmental entities, and that, prior to entering into any binding agreement with you for the purchase of any product or service, such buyers may be required to comply with numerous state and local laws, regulations and ordinances with respect to the procurement of goods and services by governmental entities. You acknowledge and agree such compliance by participating buyers may involve public notice, public hearings, counsel meetings, and other lengthy processes.

13. Privacy Policy. You hereby acknowledge EASi has the right to monitor the Solution electronically from time to time and to disclose any information as necessary to satisfy any law, regulation or other government request, to operate its service properly, or to protect itself or its users. EASi reserves the right to refuse to post or to remove any information or materials, in whole or in part, that, in its sole discretion, are unacceptable or in violation of this Agreement.

The information we receive depends on what you do when visiting the Solution. If you visit the Solution to read or download information, we collect and store only the following information about you: the name of the domain

and host through which you access the Internet (for example, aol.com if you are connecting from an America Online account), and the date and time you access the Solution. We use this information to measure the number of visitors to different sections of the Solution, so that we can make the Solution more useful to our visitors. If you actively participate in using or providing any of the services offered through the Solution, we collect and store the personally identifiable information needed to facilitate this participation (typically your name, company name, mailing address, email address).

If you wish to use a link to another website or to do business with another user of the Solution, you may be asked by the other user to provide certain confidential information. You agree not to hold EASi responsible for any loss or damage of any sort incurred as a result of any such disclosure to another user through the Solution. We do not control the collection or use of this information, and make no representations about the privacy policies of other sites.

14. Reselling or Transfer. You agree not to resell or transfer your right to use the Solution to anyone, and you will not allow your access code or password to be used by any other company or unauthorized person.

15. Access to Internet. You agree that in order to use the Solution you must: (a) provide your own access to the Internet, and (b) provide all equipment necessary for you to make the connection to the Internet. EASi is not responsible for the speed, reliability and/or quality of your connectivity to the Internet.

16. Interference with Others. You agree not to use the Solution in a manner that would restrict or inhibit any other party’s use of such services.

17. Links to Other Sites. This Solution may link you to other sites on the Internet. These links are provided for your convenience but the sites to which the links connect are not under EASi’s control. You understand and agree that the linking of the system to other sites does not mean that these sites are endorsed by EASi, and EASi is not responsible for the legality, accuracy or any other aspect of the operation or content of any sites to which links are provided.

18. Copyright – How you May Use the Content of the Solution. The content of this Solution (the “Content”) is protected by intellectual property laws of both the United States and foreign jurisdictions. You may download, use, and copy the materials found on the Solution for your internal business use only, provided that all copies that you make of the material must bear any copyright, trademark, or other proprietary notice located on the Solution which pertains to the material being copied. This material is not for republication, except as authorized in this paragraph. You are not being granted a license under any copyright, trademark, patent, or other intellectual property right in the material or the services, processes, or technology described therein. All such rights are retained by EASi and/or any third party

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EASiBuy LLC (“EASi”).

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owner of such rights. You may not sell or modify the Content or reproduce, display, publicly perform, distribute, or otherwise use the Content in any way for any public or commercial purpose. The use of the Content on any other website or in a networked computer environment for any purpose is prohibited. None of the Content, including any software, may be reverse engineered, disassembled, decompiled, reproduced, transcribed, stored in a retrieval system, translated into any language or computer language, retransmitted in any form or by any means, resold, or redistributed without the prior written consent of EASi, except as described herein. Nothing in this paragraph prohibits you from printing, using or reproducing any records or reports of your transactions using the Solution.

19. **Framed Links.** You may not create framed links to the Solution without express written permission from EASi.

20. **Modification.** EASi, in its sole discretion, has the right to modify this Agreement at any time. Any modification is effective upon either posting notice of such modification on EASi’s website or upon notice by certified mail. Your continued use of the Solution following notice of any modification to this Agreement shall be conclusively deemed an acceptance of all such modifications.

21. **Non-Circumvention.** You agree you will not, directly or indirectly, take any action with the Buyer or any other Suppliers involved in this specific event which circumvents or attempts to circumvent the intent or purpose of this Agreement. Further, you agree that once (1) you have agreed to the terms and conditions contained herein and 2) electronically viewed or received a specific request for quotations from a buyer through the Solution, you will not, directly or indirectly, enter into any agreement related to such specific request for quotations with such buyer outside the Solution or in any manner such as paper or verbal bids which would result in your failure to pay to EASi the fee set out in Section 11 hereof. You agree to maintain confidentiality between the Buyer, your company and its representatives and EASi regarding the submission of quotations and subsequent pricing before and during the auction event.

22. **Governing Law.** This Agreement and the rights of the parties to this Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio, without regard to or application of its conflict of laws principles.

23. **Partial Enforceability.** If any provision of this Agreement, or the application of any provision to any person, entity or circumstance shall be held invalid, illegal or unenforceable, then the remainder of this Agreement, or the application of that provision to persons, entities or circumstances other than those with respect to which it is held invalid, illegal or unenforceable, shall not be affected thereby.

24. **Entire Agreement.** This Agreement represents the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous written or oral agreements, negotiations, correspondence, undertakings and communications between such parties representing such subject matter.

25. **No Consequential Damages.** Except as prohibited by law, each party hereto waives any right it may have to claim or recover any special, exemplary, punitive or consequential (including business interruption), or any damages other than, or in addition to, actual damages.

26. **Headings.** The headings in this Agreement have been included solely for ease of reference and shall not be considered in the interpretation or construction of this Agreement.

YOUR SIGNATURE BELOW IS YOUR ACKNOWLEDGEMENT THAT YOU HAVE READ AND FULLY UNDERSTAND THE FOREGOING AND AGREE TO ABIDE BY ITS TERMS AND CONDITIONS IN THEIR ENTIRETY.

❖ **I understand that if “I Do Not Accept” the terms listed in this Agreement or if I do not respond to this Agreement, EASi cannot allow me or my company to participate in the online bid.**

I accept the terms listed in this agreement as well as Appendix A

Wist Business Supplies & Equipment

Name Bill Strait

Title Sales Mgr.

Signature Bill Strait

Date June 22, 2020

EXHIBIT D
EASiBuy LLC (“EASi”).
SUPPLIER AGREEMENT TERMS AND CONDITIONS

Appendix A

Please Review the following rules for participating in an Online Electronic Bid Event:

- I acknowledge that I will receive training and I am capable of bidding in the online event. If someone else is designated by me to bid in this event, I take responsibility for that bidder’s capabilities, will notify EASi, and I acknowledge that this Agreement will apply to the designated bidder.
- I understand that if I encounter any [difficulties in placing a bid](#) that I am to contact EASi via phone immediately and that, if necessary, EASi will assist me in placing a bid.
- I understand that [adequate time must be provided to EASi to assist me](#) and agree that EASi is not liable if I am unable to place a bid for any reason before the online bid closes.
- I understand that the buyer reserves the right to [modify the bid configuration](#) during the live event, including, but not limited to the extension period, minimum bid decrement amounts, etc.
- I understand that the [official bid clock](#) is maintained by EASi’s server and due to Internet connection speeds the bid clock on my computer may vary. For this reason, it is important that I submit my bid with ample time remaining in the bid event to prevent late bids from being rejected due to the lag in connection speeds and clock times.
- I understand that in some cases, an electronic bid [might be re-opened](#) if technical issues prevented a bidder or bidders from placing bids.
- I understand that EASi is under [no obligation to re-open](#) a bid for a bidder to place a bid for any reason, particularly if a bidder does not contact EASi immediately after attempting to place a rejected bid.
- I understand that the Buyer has the [right to reject any and all bids](#) and that possessing the low bid does not necessarily guarantee that the low bidder will be awarded.
- I understand that EASi recommends I make the following [precautions](#) to avoid any technical issues during the Electronic Bid Event:
 - I should arrange for another computer to act as a [backup](#) in case something happens to my computer during the auction. I should log into <http://ra.eauctionservices.com> prior to the live auction and place test bids in the training auction using this backup computer to make sure it will function properly in case it needs to be used as a back up during the bid event.
 - I should make sure no [other programs](#) are running during the auction to prevent my computer from running slowly and not getting my bid submitted in time.
- I understand that [important changes](#) to the configuration of the Electronic Bid Event or terms of the bid may be made after this communication is sent and that I must review all Bid Manager messages, emails, calls, and bid notices on site broadcast messages sent from EASi and the Buyer carefully and diligently.