

# TIPS VENDOR AGREEMENT

Between DIGITAL THEATRE.COM LTD and  
(Company Name)

## THE INTERLOCAL PURCHASING SYSTEM (TIPS)

### For

RFP 180404 Band, Performance Arts, Drill Team, and Cheer Uniforms,  
Accessories and Services

#### General Information

The Vendor Agreement ("Agreement") made and entered into by and between The Interlocal Purchasing System (hereinafter referred to as "TIPS" respectfully) a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686. This Agreement consists of the provisions set forth below, including provisions of all Attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any Attachment, the provisions set forth shall control.

The vendor Agreement shall include and incorporate by reference this Agreement, the terms and conditions, special terms and conditions, any agreed upon amendments, as well as all of the sections of the solicitation as posted, including any addenda and the awarded vendor's proposal. Once signed, if an awarded vendor's proposal varies or is unclear in any way from the TIPS Agreement, TIPS, at its sole discretion, will decide which provision will prevail. Other documents to be included are the awarded vendor's proposals, task orders, purchase orders and any adjustments which have been issued. If deviations are submitted to TIPS by the proposing vendor as provided by and within the solicitation process, this Agreement may be amended to incorporate any agreed deviations.

The following pages will constitute the Agreement between the successful vendors(s) and TIPS. Bidders shall state, in a separate writing, and include with their proposal response, any required exceptions or deviations from these terms, conditions, and specifications. If agreed to by TIPS, they will be incorporated into the final Agreement.

A Purchase Order, Agreement or Contract is the TIPS Member's approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed to between the vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some of the addendums possible.

## Terms and Conditions

### Freight

All quotes to members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating "No Charge" or "\$0" or other similar indication. Otherwise, all shipping, freight or delivery charges shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member.

### Warranty Conditions

All new supplies equipment and services shall include manufacturer's minimum standard warranty unless otherwise agreed to in writing. Vendor shall be legally permitted to sell, or an authorized dealer, distributor or manufacturer for all products offered for sale to TIPS Members. All equipment proposed shall be new unless clearly stated in writing.

### Customer Support

The Vendor shall provide timely and accurate customer support to TIPS Members. Vendors shall respond to such requests within one (1) working day after receipt of the request. Vendor shall provide training regarding products and services supplied by the Vendor unless otherwise clearly stated in writing at the time of purchase. (Unless training is a line item sold or packaged and must be purchased with product.)

### Agreements

**All Agreements and agreements** between Vendors and TIPS Members shall strictly adhere to the statutes that are set forth in the Uniform Commercial Code as most recently revised.

**Agreements for purchase** will normally be put into effect by means of a purchase order(s) executed by authorized agents of the participating government entities.

**Davis Bacon Act** requirements will be met when Federal Funds are used for construction and/or repair of buildings.

### Tax exempt status

A taxable item sold, leased, rented to, stored, used, or consumed by any of the following governmental entities is exempted from the taxes imposed by this chapter: (1) the United States; (2) an unincorporated instrumentality of the United States; (3) a corporation that is an agency or instrumentality of the United States and is wholly owned by the United States or by another corporation wholly owned by the United States; (4) the State of Texas; (5) a Texas county, city, special district, or other political subdivision; or (6) a state, or a governmental unit of a state that borders Texas, but only to the extent that the other state or governmental unit exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state. Texas Tax Code § 151.309. Most TIPS Members are tax exempt and the related laws of the jurisdiction of the TIPS Member shall apply.

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### **Assignments of Agreements**

No assignment of Agreement may be made without the prior written approval of TIPS. Payment can only be made to the awarded Vendor or vendor assigned company.

### **Disclosures**

1. Vendor affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this Agreement.
2. Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with Members in the TIPS program.
3. The vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

### **Renewal of Agreements**

The Agreement with TIPS is for three (3) years with an option for renewal for an additional one (1) consecutive year. Total term of Agreement can be up to the number of years provided in the solicitation, if sales are reported through the Agreement and both parties agree. The scheduled Agreement termination date shall be the last date of the month of the last month of the agreement's legal effect. **Example:** *If the agreement is scheduled for to end on May 23, the anniversary date of the award, it would actually be extended to May 31 in the last month of the last year the contract is active.*

### **Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.**

No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order or executed Agreement issued by the TIPS Member for any renewal period. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

**Shipments**

The Vendor shall ship ordered products within a commercially reasonable time after the receipt of the order. If a product cannot be shipped within that time, the Vendor shall notify TIPS and the requesting entity as to why the product has not shipped and shall provide an estimated shipping date, if applicable. TIPS or the requesting entity may cancel the order if estimated shipping time is not acceptable.

**Invoices**

The awarded vendor shall submit invoices or payment requests to the TIPS Member participating entity clearly stating "Per TIPS Agreement # xxxxxxxx. Each invoice or pay request shall include the TIPS Member's purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request. The Vendor or vendor assigned dealer shall not invoice for partial shipments unless agreed to in writing in advance by TIPS and the TIPS Member.

**Payments**

The TIPS Member will make payments directly to the Vendor or vendor assigned dealer at net 30 days after receiving invoice or in compliance with applicable statute, whichever is the lessor time or as otherwise provided by an agreement of the parties.

**Pricing**

The Vendor agrees to provide pricing to TIPS and its participating governmental entities that is at least equal to the lowest pricing available to like cooperative purchasing customers and the pricing shall remain so throughout the duration of the Agreement.

Price increases will be honored according to the terms of the solicitation. However, the Vendor shall honor previous prices for thirty (30) days after written notification to TIPS of an increase.

All pricing submitted to TIPS shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to customer. Failure to render the participation fee to TIPS shall constitute a breach of this agreement and shall be grounds for termination of this agreement and any other agreement held with TIPS.

**Participation Fees**

Vendor or vendor assigned dealer Agreements to pay the participation fee for all Agreement sales to TIPS on a monthly scheduled report. Vendor must login to the TIPS database and use the "Submission Report" section to report sales. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement. Failure to pay the participation fee will result in termination of Agreement. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

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### **Indemnity**

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, direct losses, and direct expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, a breach of Vendor's work obligations under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees provided that (1) the Institution promptly notifies Digital Theatre on gaining knowledge of a potential claim or legal action and (2) Digital Theatre is given sole and exclusive right to address and defend any such claim from the outset. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. Per Texas Education Code 44.032(f), reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation. Notwithstanding anything to the contrary contained in this Agreement the Vendor's liability under or in connection with this Agreement whether in contract, in negligence or otherwise (other than in respect of personal injury or death or fraud or fraudulent misrepresentation) shall not exceed one million pounds (1,000,000).

### **Multiple Vendor Awards**

TIPS reserves the right to award multiple vendor Agreements for categories when deemed in the best interest of the TIPS Membership. Bidders scoring the solicitation's specified minimum score or above will be considered for an award. Categories are established at the discretion of TIPS.

### **State of Texas Franchise Tax**

By signature hereon, the bidder hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

### **Miscellaneous**

The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

### **Purchase Order Pricing/Product Deviation**

If a deviation of pricing/product on a purchase order or contract modification occurs, TIPS is to be notified within 48 hours of receipt of order.

### **Termination for Convenience**

TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty-day written notice. Termination for convenience is required under Federal Regulations 2 CFR part 200. All purchase orders presented to the Vendor by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded vendor may terminate the agreement with ninety (90) days written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686.

### **TIPS Member Purchasing Procedures**

Purchase orders or their equal are issued by participating TIPS Member to the awarded vendor indicating on the PO "Agreement Number". Order is emailed to TIPS at tipspo@tips-usa.com.

- Awarded vendor delivers goods/services directly to the participating member.
- Awarded vendor invoices the participating TIPS Member directly.
- Awarded vendor receives payment directly from the participating member.
- Awarded vendor reports sales monthly to TIPS (unless prior arrangements have been made with TIPS to report monthly).

### **Form of Agreement**

If a vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, a copy of the proposed agreement must be included with the proposal. In response to submitted supplemental Vendor Agreement documents, TIPS will review proposed vendor Agreement documents. Supplemental Vendor's Agreement documents shall not become part of TIPS's Agreement with vendor unless and until an authorized representative of TIPS reviews and approves it.

### **Licenses**

Awarded vendor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded vendor. Awarded vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the Agreement. TIPS reserves the right to stop work and/or cancel Agreement of any awarded vendor whose license(s) expire, lapse, are suspended or terminated.

### **Site Requirements (when applicable to service or job)**

Cleanup: Awarded vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

Preparation: Awarded vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order.

Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

Registered sex offender restrictions: For work to be performed at schools, awarded vendor agrees that no employee of a sub-contractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present. Awarded vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion.

Awarded vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

Safety measures: Awarded vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

#### **Smoking**

Persons working under Agreement shall adhere to local smoking policies. Smoking will only be permitted in posted areas or off premises.

#### **Marketing**

Awarded vendor agrees to allow TIPS to use their name and logo within website, marketing materials and advertisement. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS. Use of DT+ branding requires approval from DT+.

#### **Supplemental agreements**

The TIPS Member entity participating in the TIPS Agreement and awarded vendor may enter into a separate supplemental agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement or contract developed as a result of this Agreement is exclusively between the participating entity and awarded vendor. TIPS, its agents, TIPS Members and employees shall not be made party to any claim for breach of such agreement.

#### **Survival Clause**

All applicable software license agreements, warranties or service agreements that were entered into between Vendor and Customer under the terms and conditions of the Agreement shall survive the expiration or termination of the Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor prior to the

expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

#### **Legal obligations**

It is the responding vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in this Solicitation and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

#### **Audit rights**

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct random audits of Awarded Vendor's pricing that is offered to TIPS Members. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third-party auditing firm to investigate any possible non-complying conduct. In the event of an audit, the requested materials shall be reasonably provided in the format and at the location designated by Region 8 ESC or TIPS.

#### **Force Majeure**

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and fully particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

#### **Scope of Services**

The specific scope of work for each job shall be determined in advance and in writing between TIPS Member and Awarded vendor. It is permitted for the TIPS Member to provide a general scope, but the awarded vendor should provide a written scope of work to the TIPS Member as part of the proposal. Once the scope of the job is agreed to, the TIPS Member will issue a Purchase Order and/or an Agreement or Contract and/or an Agreement with the estimate referenced as an attachment along with required bond and any other special provisions agreed to for the TIPS Member. If special terms and conditions other than those covered within this



solicitation and awarded Agreements are required, they will be attached to the Purchase Order and/or an Agreement or Contract and shall take precedence over those in the base TIPS Vendor Agreement.

#### **Project Delivery Order Procedures**

The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded vendor under this Agreement when the TIPS Member has services that need to be undertaken. Notification may occur via phone, the web, email, fax, or in person. Upon notification of a pending request, the awarded vendor shall make contact with the TIPS Member as soon as possible, but must make contact with the TIPS Member within two working days.

#### **Scheduling of Projects**

Scheduling of projects (if applicable) will be accomplished when the TIPS Member issues a purchase order or other document that will serve as "the notice to proceed". The period for the delivery order will include the mobilization, materials purchase, installation and delivery, design, weather, and site cleanup and inspection. No additional claims may be made for delays as a result of these items. When the tasks have been completed the awarded vendor shall notify the client and have the TIPS Member inspect the work for acceptance under the scope and terms in the PO. The TIPS Member will issue in writing any corrective actions that are required. Upon completion of these items, the TIPS Member will issue a completion notice and final payment will be issued.

#### **Support Requirements**

If there is a dispute between the awarded vendor and TIPS Member, TIPS or its representatives will assist in conflict resolution or third party (mediation), if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded vendors TIPS project files, documentation and correspondence. DT+ reserves the right to undertake initial mediation on the telephone from our London office

#### **Incorporation of Solicitation**

The TIPS Solicitation, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, that resulted in the execution of this agreement are hereby incorporated by reference into this agreement as if copied verbatim.

#### **SECTION HEADERS OR TITLES**

THE SECTION HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITIES OF THE PARTIES TO THIS DOCUMENT.

**NEW STATUTORY REQUIREMENT EFFECTIVE SEPTEMBER 1, 2017.**

Texas governmental entities are prohibited from doing business with companies that fail to certify to this condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and we do not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within 1 business day of the change by a letter on your letterhead from an authorized representative of the Vendor stating the non-compliance decision and the TIPS Agreement number and description at:

Attention: General Counsel  
ESC Region 8/The Interlocal Purchasing System (TIPS)  
4845 Highway 271 North  
Pittsburg, TX, 75686.  
And by an email sent to [bids@tips-usa.com](mailto:bids@tips-usa.com)

**Insurance Requirements**

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders.

General Liability	\$1,000,000 each Occurrence/ Aggregate
Products/Completed Operations	\$1,000,000
Automobile Liability	\$300,000 Including owned, hired, & non-owned
Workers' Compensation	Statutory limits
Employers' Liability - if you employ others than owners and provide services or on-site delivery or work, not just goods	\$1,000,000
Umbrella Liability	\$1,000,000

When the contractor or its subcontractors are liable for any damages or claims, the contractors' policy must be primary over any other valid and collectible insurance carried by the District. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Contractor(s).

Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. Only deductibles applicable to property damage are acceptable. "Claims made" policies will not be accepted. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member.

## Special Terms and Conditions

It is the intent of TIPS to award to reliable, high performance vendors to supply products and services to government and educational agencies. It is the experience of TIPS that the following procedures provide TIPS, the Vendor, and the participating agency the necessary support to facilitate a mutually beneficial relationship. The specific procedures will be negotiated with the successful vendor.

- **Agreements:** All vendor Purchase Orders and/or Agreements/Contracts must be emailed to TIPS at tipspo@tips-usa.com. Should an agency send an order direct to vendor, it is the vendor's responsibility to forward the order to TIPS at the email above within 24 business hours and confirm its receipt with TIPS.
- **Promotion of Agreement:** It is agreed that Vendor will encourage all eligible entities to purchase from the TIPS Program. Encouraging entities to purchase directly from the Vendor and not through TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Daily Order Confirmation:** All Agreement purchase orders will be approved daily by TIPS and sent to vendor. The vendor must confirm receipt of orders to the TIPS Member (customer) within 24 business hours.
- **Vendor custom website for TIPS:** If Vendor is hosting a custom TIPS website, then updated pricing must be posted by 1<sup>st</sup> of each month.
- **Back Ordered Products:** If product is not expected to ship within 3 business days, customer is to be notified within 24 hours and appropriate action taken based on customer request.

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Page 12 of 12 will be the TIPS Vendor Agreement Signature Page

See after Signature Page Exhibit A, consisting of 12 pages, which is incorporated into this agreement as amended.

# TIPS Vendor Agreement Signature Form

RFP 180404 Band, Performance Arts, Drill Team, and Cheer  
Uniforms, Accessories and Services

Company Name Digital Theatre+  
Address 30-36 Peninsular House, Monument Street  
City London State n/a Zip EC3R 8NB  
Phone 646 652 0150 Fax n/a  
Email of Authorized Representative chris.davison@digitaltheatre.com  
Name of Authorized Representative Chris Davison  
Title Head of Channels  
Signature of Authorized Representative   
Date 28/6/18.  
TIPS Authorized Representative Name \_\_\_\_\_  
Title \_\_\_\_\_  
TIPS Authorized Representative Signature \_\_\_\_\_  
Approved by ESC Region 8 \_\_\_\_\_  
Date \_\_\_\_\_

## Exhibit A to TIPS Vendor Agreement as modified for DT+

### DIGITAL THEATRE+ LICENSE AND TERMS OF USE AGREEMENT

**DIGITAL THEATRE.COM LIMITED**, a company registered in England and Wales under company number 06570330, having its registered office at 30-36 Peninsular House, Monument Street, London, EC3R 8NB United Kingdom ("**Digital Theatre**").

**THIS LICENCE AGREEMENT** gives to you, the Institution, on payment of the Licence Fee, permission to access the Licensed Material and use such material only on the terms and conditions as set out in this agreement ("**Agreement**"). Please read carefully the following terms and conditions which apply to the Digital Theatre.Com Limited ("**Digital Theatre**") Service and which apply in addition to the Digital Theatre privacy policy.

### BACKGROUND

- A. Digital Theatre is a company specializing in the creation, marketing, delivery and distribution of high quality filmed versions of theatrical productions ("**Films**"). Digital Theatre runs an educational website [www.digitaltheatreplus.com](http://www.digitaltheatreplus.com) on which Films, documentaries and other educational materials and content are made available on a subscription basis to educational institutions (the service provided to subscribers by Digital Theatre on the Digital Theatre+ Website is referred to in this Agreement as "**Digital Theatre+**" and Digital Theatre will notify Institution if the name of the service should change).
- B. The Institution wishes to be granted a licence to the Films, documentaries and other educational materials and content made available on Digital Theatre+.

### IT IS AGREED AS FOLLOWS

#### 1. DEFINITIONS

- 1.1 In this Agreement, the following terms shall have the following meanings:

"**Authorised User**" means an individual who is authorised by the Institution to have access to its information services (whether on-site or off-site) via Secure Authentication and who is:

- a current student of the Institution (including current pupils, current undergraduates, and current postgraduates as applicable);

- a member of staff of the Institution (whether permanent or temporary);
- a contractor of the Institution whose contract requires access to the Licensed Material; or
- a walk-in user: patrons not affiliated with Institution who are physically present at Institution's site(s) ("walk-ins").

**"Commercial Use"** means use for the purpose of monetary reward (whether by or for the Institution or an Authorised User) by means of the sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Material.

**"Digital Theatre+ Website"** means the website based at [www.digitaltheatreplus.com](http://www.digitaltheatreplus.com) which url may be changed by Digital Theatre from time to time.

**"Educational Purposes"** means use for the purpose of education, teaching, distance learning, private study and/or research.

**"Intellectual Property Rights"** means any patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing-off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**"Licence Fee"** means the fee for the Licence as stated on the Order Form and paid to Digital Theatre.

**"Licence Commencement Date"** means the date the Institution has access to the Films under this Agreement, unless otherwise stated in the Order Form.

**"Licensed Material"** means the materials licensed in this Agreement and included in the service known as Digital Theatre+ being the Films, documentaries and any other educational materials and content made available on Digital Theatre's Website on a subscription basis via the Institution to Authorised Users.

**"Material Breach"** means a breach that substantially deprives the non-breaching party of the principal benefit of this agreement or that causes the non-breaching party to suffer irreparable or significant harm, such as but not limited to: non-payment of fees, a breach of the restrictions listed in Clause 4 or Intellectual Property Rights listed in Clause 9.

"**Metadata**" means information about one or more aspects of the data, such as:

- Mode and method of creation of the data
- Purpose of the data
- Time and date of creation
- Creator or author of the data
- Location on a computer network where the data were created
- Standards used.

For example, a digital image may include metadata that describe how large the picture is, the colour depth, the image resolution, when the image was created, and other data. A text document's metadata may contain information about how long the document is, who the author is, when the document was written, and a short summary of the document.

"**Modifications**" means alterations, additions to, deletions from, manipulations and/or modifications of parts of the Metadata supplied by Digital Theatre in accordance with section 21 of the United Kingdom's Copyright, Designs and Patents Act 1988.

"**Modify**" means to alter, add to, delete from, manipulate and/or modify parts of the Metadata.

"**Order Form**" means the form on Digital Theatre+ Website through which Institution places a request for access to the Licensed Material as described in more detail in Clause 2.

"**Secure Authentication**" means using either a secure intranet or the public internet under the protection of a password or other security mechanism providing access limited to Authorised Users.

"**Secure Network**" means a network which is only accessible to Authorised Users by Secure Authentication.

## 2. LICENSE GRANT

- 2.1 On acceptance of Institution's Order Form, Digital Theatre grants to the Institution, subject to and in accordance with the terms of the Order Form and this Agreement, a non-exclusive non-transferable, limited licence to access and use the Licensed Material and to allow Authorised Users where applicable to access and use the Licensed Material on the Digital Theatre+ Website via Secure Authentication and for Educational Purposes.

### 3. PERMITTED USES

3.1 This Agreement permits the Institution to, for Educational Purposes only, and ensuring that at all times each item shall carry appropriate acknowledgement of the source and copyright owner:

3.1.1 display, download and print those parts of the Licensed Material which are made available on the Digital Theatre+ Website as downloadable PDF documents (for the avoidance of doubt this excludes any audio visual material) for the purpose of promoting or testing the Licensed Material or for training Authorised Users or at the request of Authorised Users;

3.1.2 make and distribute copies of training material as may be required for the purpose of using the Licensed Material in accordance with this Agreement;

3.1.3 mount and use Metadata in bespoke and commercially available library systems to manage library operations;

3.1.4 allow Authorised Users, for Educational Purposes only to:

- (a) access the Licensed Material by Secure Authentication in order to search, retrieve, display and view the Licensed Material as permitted on the Digital Theatre+ Website;
- (b) modify the Metadata and create new Metadata of the Licensed Material;
- (c) electronically save those parts of the Licensed Material which are made available on the Digital Theatre+ Website as downloadable PDF documents;
- (d) print out single copies of those parts of the Licensed Material which are made available on Digital Theatres' Website as downloadable PDF documents;
- (e) incorporate parts of the Licensed Material which are made available on the Digital Theatre+ Website as downloadable PDF documents and or links to other parts of the Licensed Material in printed and electronic course packs to be used in the course of instruction and/or in virtual learning environments hosted on a Secure Network. Authorised Users must specify the title and copyright owner of the Licensed Material used in the course packs. Course packs in other formats, such as Braille, may also be offered to Authorised Users;
- (f) incorporate those parts of the Licensed Material which are made available on the Digital Theatre+ Website as downloadable PDF



documents in printed or electronic form in assignments and portfolios, theses and in dissertations (“the Academic Works”), and to make reproductions of the Academic Works for personal use and library deposit; and

- (g) use the Licensed Material to perform and engage in text mining/data mining activities solely for academic research and Educational Purposes.

- 3.2 This Agreement shall be deemed to complement and extend the rights of the Institution and Authorised Users under the United Kingdom’s Copyright, Designs and Patents Act 1988 and Copyright (Visually Impaired Persons) Act 2002 and nothing in this Agreement shall constitute a waiver of any statutory rights held by the Institution and Authorised Users from time to time under these Acts or any amending legislation.

#### 4. **RESTRICTIONS**

- 4.1 Except where this Agreement states otherwise, the Institution and Authorised Users may not:

- 4.1.1 sell or resell the Licensed Material, Metadata and/or Modifications unless Digital Theatre has given the Institution or an Authorised User specific prior permission in writing to do so;
- 4.1.2 remove, obscure or alter copyright notices, acknowledgments or other means of identification or disclaimers other than Metadata;
- 4.1.3 alter or adapt the Licensed Material (save for Metadata), except to the extent necessary to make it perceptible on a computer screen, or as otherwise allowed under this Agreement. For the avoidance of doubt, no alteration of the words or the order of audio visual material is allowed;
- 4.1.4 display or distribute any part of the Licensed Material on any electronic network, including the internet other than by a Secure Network;
- 4.1.5 use all or any part of the Licensed Material for any Commercial Use or for any purpose other than Educational Purposes; and
- 4.1.6 provide access and/or allow use of the Licensed Material by anyone other than Authorised Users.

- 4.2 This Clause will continue to apply after termination of this Agreement for any reason.

## 5. RESPONSIBILITIES OF DIGITAL THEATRE

### 5.1 Digital Theatre agrees to use reasonable endeavours to:

- 5.1.1 make the Licensed Material available to the Institution and Authorised Users following acceptance of this Agreement by both parties and continued availability of the Licensed Material will be dependent upon Institution paying the Licence Fee in cleared funds by the date requested of them;
- 5.1.2 make the Licensed Material available to the Institution and Authorised Users 24 hours a day (except when routine maintenance is carried out), and to restore access to the Licensed Material as soon as possible after any interruption or suspension of the Digital Theatre+ service;
- 5.1.3 provide customer support services relating to the Digital Theatre+ service to Authorised Users by e-mail or over the phone during normal working hours in the United Kingdom. Customer support on phone is from 9.00 am to 5.00 pm on business days UK time. Digital Theatre will respond to all customer enquiries via email within 24 hours;
- 5.1.4 provide such electronic product documentation (for example: user guides and promotional materials) to the Institution free of charge as Digital Theatre shall have available. Digital Theatre will allow copies of all such documentation to be made and distributed by the Institution to Authorised Users provided it is either duplicated in full, or a proper ownership acknowledgement is included.

## 6. RESPONSIBILITIES OF INSTITUTION

### 6.1 The Institution agrees to:

- 6.1.1 give passwords or other secure access information only to Authorised Users and use all reasonable efforts to ensure that Authorised Users do not give their passwords or other Secure Authentication information to anyone else;
- 6.1.2 provide lists of valid IP addresses to Digital Theatre and update those lists regularly as agreed by the parties from time to time;
- 6.1.3 use all reasonable efforts to ensure that only Authorised Users are permitted access to the Licensed Material;





7.2 Payments to Digital Theatre shall be made by wire transfer to:

Barclays Bank

Sort Code: 20-78-98

Account name: Digital Theatre

Account number: 23030741.

## 8. TERM AND TERMINATION

8.1 This Agreement will be effective from the date Institution receives Digital Theatre's acceptance of Institution's signed Order Form and the term of this Agreement will be for the term specified in the Order Form (the "**Initial Term**") and will remain in full force and effect for the duration of that term, unless terminated earlier or extended as provided for in this Clause 8.

8.2 Deleted

8.3 The Institution may cancel their subscription, and therefore terminate this Agreement, within 30 days of signing the Order Form, for any reason. If the Licence Fee has been paid to Digital Theatre prior to the cancellation, Digital Theatre will reimburse the Institution with the Licence Fee in full. The Institution may not cancel their subscription more than 30 days after signing the Order Form.

8.4 Either Digital Theatre or the Institution may terminate this Agreement at any time for a Material Breach by serving a written notice on the other identifying the nature of the breach. The termination will become effective thirty days after receipt of the written notice unless during the relevant period of thirty (30) days the defaulting party remedies the breach forthwith and confirms this by written notice to the other party who shall, acting reasonably and without unnecessary delay, confirm the breach has been satisfactorily remedied.

8.5 Upon termination of this Agreement by Digital Theatre due to a Material Breach Digital Theatre shall have the right to immediately cease to authorise online access to the Licensed Material by the Institution and Authorised Users and the Institution shall immediately pay any License Fees owing to Digital Theatre, but in the event that License Fees have been paid in advance, the Institution shall not be entitled to any refund of such License Fees. The Institution and its Authorised Users shall not use any of the copies made of the Licensed Material after the date of termination and the Institution shall be responsible for destroying all such copies of the Licensed Material and, if so requested by Digital Theatre, shall send a certificate confirming the destruction to Digital Theatre.

- 8.6 Upon termination of this Agreement by the Institution due to a Material Breach by Digital Theatre under Clause 8.4, the Institution (i) shall have the right to a pro-rata refund of 50% of the Licence Fee for any term of the licence remaining (for example: if the termination occurs at 6 months into the 12 month term, there will be 50% of the term remaining and the Institution will be reimbursed 25% of the Licence Fee) and (ii) shall cease to authorise online access to the Licensed Material by the Institution and Authorised Users.

## 9. **ACKNOWLEDGEMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

- 9.1 The Institution acknowledges and agrees that all Intellectual Property Rights in the Licensed Material are either the sole and exclusive property of Digital Theatre or are duly licensed to Digital Theatre and that this Agreement does not assign or transfer to the Institution any right, title or interest except for the right to access and use the Licensed Material in accordance with the terms and conditions of this Agreement.
- 9.2 The Institution acknowledges and agrees that Digital Theatre may suspend access to the Licensed Material with notice in the event of any breach or suspected breach of this Agreement by the Institution or Authorised Users (including any suspected or actual infringement of Digital Theatre's Intellectual Property Rights) until such time as any issue has been determined and resolved.
- 9.3 The Institution acknowledges and agrees that Digital Theatre shall have the right to alter, replace or remove any part of the Licensed Material, in the event that such part of the Licensed Material might breach Digital Theatre's agreement with one or more of its partner archives or might involve any rights clearance issues. Digital Theatre shall be entitled to remove such content at short notice and any replacement materials shall then be deemed to form part of the Licensed Material.

## 10. **REPRESENTATION and WARRANTIES**

- 10.1 Digital Theatre warrants to the Institution to the best of its knowledge that the Licensed Material and all Intellectual Property Rights therein are owned by or licensed to Digital Theatre and that the Licensed Material used as contemplated in this Agreement does not infringe any third party Intellectual Property Rights, subject to Clauses 9.2 and 9.3.
- 10.2 While Digital Theatre has no reason to believe that there are any inaccuracies or defects in the information contained in the Licensed Material, Digital Theatre makes no representation and gives no warranty express or implied with regard to the information contained in or any part of the Licensed Material including (without limitation) the fitness of such information or part for any purposes

whatsoever and Digital Theatre accepts no liability for loss suffered or incurred by the Institution or Authorised Users as a result of their reliance on the Licensed Material.

- 10.3 In no circumstances will Digital Theatre be liable to the Institution for any loss resulting from a cause over which Digital Theatre does not have direct control, including but not limited to failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, unauthorised access, theft, or operator errors.
- 10.4 The Institution agrees to notify Digital Theatre immediately and provide full particulars in the event that it becomes aware of any actual or threatened claims by any third party in connection with any works contained in the Licensed Material and do all things reasonably required to assist Digital Theatre in such claims. It is expressly agreed that upon such notification, or if Digital Theatre becomes aware of such a claim from other sources, Digital Theatre may remove such work(s) from the Licensed Material. Failure to report knowledge of any actual or threatened claim by any third party shall be deemed a Material Breach of this Agreement.
- 10.5 Except as provided for in Clause 6.3 or Clause 10.1, neither the Institution nor Digital Theatre will be liable to the other in contract or negligence or otherwise for:
  - 10.5.1 any special, indirect, incidental, punitive or consequential damages;
  - 10.5.2 loss of direct or indirect profits, business, contracts, revenue or anticipated savings; or
  - 10.5.3 for any increased costs or expenses.
- 10.6 Except as provided in section 6.3, no party limits its liability for:
  - 10.6.1 death or personal injury to the extent it results from its negligence, or of its employees or agents in the course of their engagement; and
  - 10.6.2 its own fraud or that of its employees or agents in the course of their engagement.

## 11. **FORCE MAJEURE**

- 11.1 Either party's failure to perform any term or condition of this Agreement as a result of circumstances beyond the control of the relevant party (including

without limitation, war, strikes, flood, governmental restrictions, and power, telecommunications or Internet failures or damages to or destruction of any network facilities ("**Force Majeure**") shall not be deemed to be, or to give rise to, a breach of this Agreement.

- 11.2 If either party to this Agreement is prevented or delayed in the performance of any of its obligations under this Agreement by Force Majeure and if such party gives written notice thereof to the other party specifying the matters constituting Force Majeure together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue, then the party in question shall be excused the performance or the punctual performance as the case may be as from the date of such notice for so long as such cause of prevention or delay shall continue.

## 12. **ASSIGNMENT**

- 12.1 Except as permitted for under this Agreement, neither this Agreement nor any of the rights and obligations under it may be assigned by the Institution without obtaining the prior written consent of Digital Theatre, such consent shall not unreasonably be withheld or delayed. In any permitted assignment by Institution, the Institution shall procure and ensure that the assignee shall assume all rights and obligations of the Institution under this Agreement and agrees to be bound to all the terms of this Agreement.

## 13. **GOVERNING LAW AND DISPUTE RESOLUTION**

- 13.1 In relation to the operation of this Agreement and as between each other, the parties shall conduct themselves in good faith.
- 13.2 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of the United States and the State of the jurisdiction of TIPS or the TIPS Member.. Each party irrevocably agrees that the courts of the United States and the laws of the State of the jurisdiction of the TIPS Member in question, shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).
- 13.2 Any disagreement about the operation of this Agreement shall be settled by the matter being promptly referred to a senior executive from each of the parties, authorised to agree a solution. The senior executives shall have 30 days from the raising of the disagreement to discuss and resolve the matter.

#### 14. NOTICES

14.1 All notices required to be given under this Agreement shall be given in writing in English and sent by courier, email or special delivery to the relevant addressee at its address set out below, or to such other address as may be notified from time to time under this Agreement, and all such notices shall be deemed to have been received three (3) days after the date of posting in the case of special delivery or dispatch in the case of courier:

if to the Institution:	the address notified by the Institution
if to Digital Theatre:	Digital Theatre.com Limited 30-36 Peninsular House, Monument Street, London EC3R 8NB Attention: Frank Hyman/Michael Allen

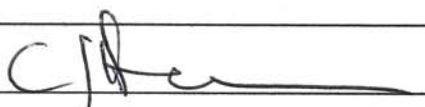

#### 15. GENERAL

- 15.1 The TIPS Vendor Agreement, the Request for Proposals and the Vendor's response to the Request for Proposals, this Agreement, its Schedules, controlling in the foregoing order, constitute the entire agreement between the parties relating to the Licensed Material and supersede all prior communications, understandings and agreements (whether written or oral) relating to its subject matter and may not be amended or modified except by agreement of both parties in writing
- 15.2 The Schedules shall have the same force and effect as if expressly set in the body of this Agreement and any reference to this Agreement shall include the Schedules.
- 15.3 The provisions of this Agreement are separable and, if any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of this Agreement.
- 15.4 The rights of the parties arising under this Agreement shall not be waived except in writing. Any waiver of any of a party's rights under this Agreement or of any breach of this Agreement by the other party shall not be construed as a waiver of any other rights or of any other or further breach. Failure by either party to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.



# TIPS Vendor Agreement Signature Form

RFP 180404 Band, Performance Arts, Drill Team, and Cheer  
Uniforms, Accessories and Services

Company Name Digital Theatre+  
Address 30-36 Peninsular House, Monument Street  
City London State n/a Zip EC3R 8NB  
Phone 646 652 0150 Fax n/a  
Email of Authorized Representative chris.davison@digitaltheatre.com  
Name of Authorized Representative Chris Davison  
Title Head of Channels  
Signature of Authorized Representative   
Date 28/6/18  
TIPS Authorized Representative Name Meredith Barton  
Title Vice-President of Operations  
TIPS Authorized Representative Signature   
Approved by ESC Region 8   
Date 6/28/18

# The Interlocal Purchasing System (TIPS Cooperative) Supplier Response

Bid Information		Contact Information		Ship to Information
Bid Creator	Rick Powell General Counsel/Procurement Compliance Officer	Address	Region VIII Education Service Center 4845 US Highway 271 North Pittsburg, TX 75686	Address
Email	rick.powell@tips-usa.com	Contact	Kristie Collins, Contracts Compliance Specialist	Contact
Phone	(903) 575-2689 x			Department
Fax				Building
Bid Number	180404			Floor/Room
Title	Band, Performance Arts, Drill Team, and Cheer Uniforms, Accessories and Services	Department		Telephone
		Building		Fax
Bid Type	RFP			Email
Issue Date	4/5/2018 09:03 AM (CT)	Floor/Room		
Close Date	5/21/2018 08:00:00 AM (CT)	Telephone	+1 (866) 839-8477 x	
		Fax	+1 (866) 839-8472 x	
		Email	bids@tips-usa.com	

## Supplier Information

Company	Digital Theatre+
Address	Ground Floor 30-36 Peninsular House London, UK United Kingdom SE1 9D
Contact	Chris Davison
Department	
Building	
Floor/Room	
Telephone	(646) 652-0150
Fax	
Email	chris.davison@digitaltheatre.com
Submitted	5/3/2018 11:56:49 AM (CT)
Total	\$0.00

By submitting your response, you certify that you are authorized to represent and bind your company.

Signature Christopher Davison

Email chris.davison@digitaltheatre.com

## Supplier Notes

We look forward to welcoming you to DT+.

## Bid Notes

## Bid Activities

## Bid Messages

**Bid Attributes**

Please review the following and respond where necessary

#	Name	Note	Response
1	Yes - No	Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at <a href="https://comptroller.texas.gov/purchasing/vendor/hub/">https://comptroller.texas.gov/purchasing/vendor/hub/</a> or in a HUBZone as defined by the US Small Business Administration at <a href="https://www.sba.gov/offices/headquarters/ohp">https://www.sba.gov/offices/headquarters/ohp</a> Proof of one or both may be submitted. Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section.	No
2	Yes - No	The Vendor can provide services and/or products to all 50 US States?	Yes
3	States Served:	If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)	
4	Company and/or Product Description:	This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)	<p>Digital Theatre+ is a multi-award-winning platform bringing world-class theatre productions to a global education audience, increasing student engagement, exam grades and college &amp; career readiness.</p> <p>Schools benefit from a growing collection, including:</p> <ul style="list-style-type: none"> <li>• 380+ Classic, contemporary and international productions</li> <li>• 270+ In-depth interviews exploring ALL creative and technical theatre roles</li> <li>• And finally, 290+ written documents and study materials written by industry experts</li> </ul> <p>With DT+, teachers tell us they're saving 4-5 hours per week in planning time.</p> <p>Partners include: Royal Shakespeare Company, Frantic Assembly, Royal Opera House, The Old Vic, Broadway Digital Archive, LA Theatre Works, English National Ballet, BBC.</p> <p>DT+ provides a step-change in learning opportunities for performing arts. Exposing students to world-theatre, irrespective of geographical bounds or social status.</p> <p><a href="http://www.digitaltheatreplus.com">www.digitaltheatreplus.com</a></p>
5	Primary Contact Name	Primary Contact Name	Chris Davison

6	Primary Contact Title	Primary Contact Title	Head of Channels
7	Primary Contact Email	Primary Contact Email	chris.davison@digitaltheatre.com
8	Primary Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	646 652 0150
9	Primary Contact Fax	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	n/a
10	Primary Contact Mobile	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	
11	Secondary Contact Name	Secondary Contact Name	Luke Flanagan
12	Secondary Contact Title	Secondary Contact Title	Senior Account Manager
13	Secondary Contact Email	Secondary Contact Email	luke.flanagan@digitaltheatre.com
14	Secondary Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	646 652 0150
15	Secondary Contact Fax	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	n/a
16	Secondary Contact Mobile	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	
17	Admin Fee Contact Name	Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS.	Michael Ferguson
18	Admin Fee Contact Email	Admin Fee Contact Email	finance@digitaltheatre.com
19	Admin Fee Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	646 652 0150
20	Purchase Order Contact Name	Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS.	Chris Davison
21	Purchase Order Contact Email	Purchase Order Contact Email	chris.davison@digitaltheatre.com
22	Purchase Order Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	646 652 0150
23	Company Website	Company Website (Format - www.company.com)	<a href="https://www.digitaltheatreplus.com">https://www.digitaltheatreplus.com</a>
24	Federal ID Number:	Federal ID Number also known as the Employer Identification Number. (Format - 12-3456789)	n/a International business
25	Primary Address	Primary Address	Peninsular House, 30-36 Monument Street
26	Primary Address City	Primary Address City	London
27	Primary Address State	Primary Address State (2 Digit Abbreviation)	London (UK)
28	Primary Address Zip	Primary Address Zip	EC3R 8NB
29	Search Words:	Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)	theatre, theater, dance, music, content, digital, performing arts, fine arts, online, digital theatre, digital theater, digital theatre plus, digital theatre+, digital theater plus, digital theater+, performance, shakespeare, shakespeare, interviews, practitioners, stage, productions, lesson plans,

30	Yes - No	Most of our members receive Federal Government grants and they make up a significant portion of their budgets. The members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that are provisions from the federal regulations in 2 CFR part 200. Your answers will determine if your award will be designated as Federal or Education Department General Administrative Regulations (EDGAR)compliant. Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?	Yes
31	Yes - No	Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner:  (A) has its principal place of business in Texas;  OR  (B) employs at least 500 persons in Texas?	No
32	Company Residence (City)	Vendor's principal place of business is in the city of?	London UK
33	Company Residence (State)	Vendor's principal place of business is in the state of?	London UK
34	Felony Conviction Notice:	(Required by the State of Texas) My firm is, as outlined on PAGE 5 in the Instructions to Bidders document: (Questions 36 - 37) Statutory citation covering notification of criminal history of contractor is found in the Texas Education Code #44.034. Following is an example of a felony conviction notice: State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district or ESC 8/TIPS must give advance notice to the district or ESC 8/TIPS if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."	(No Response Required)
35	Yes - No	A publicly held corporation; therefore, this reporting requirement is not applicable?	No
36	Yes - No	Is owned or operated by individual(s) who has/have been convicted of a felony?	No
37	If your firm is owned or operated by the following individual(s) who has/have been convicted of a felony:	Please provide details of the conviction. This is not necessarily a disqualifying factor and the details of the conviction determines the eligibility. Providing false or misleading information about the conviction is illegal.	
38	Pricing Information:	Pricing information section. (Questions 39 - 43)	(No Response Required)

39	Discount Offered	What is the MINIMUM percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the RFP document), website, store or shelf pricing? This is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale. Must answer with a number between 0% and 100%.	6%
40	TIPS administration fee	By submitting a proposal, I agree that all pricing submitted to TIPS shall include the participation fee, as designated in the solicitation or as otherwise agreed in writing and shall be remitted to TIPS by the Vendor as agreed in the Vendor agreement. I agree that the fee shall not and will not be added by the vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member.	(No Response Required)
41	Yes - No	Vendor agrees to remit to TIPS the required administration fee? TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered.	Yes
42	Yes - No	Do you offer additional discounts to TIPS members for large order quantities or large scope of work?	Yes
43	Start Time	Average start time after receipt of customer order is ____ working days?	2
44	Years Experience	Company years experience in this category? This is an evaluation criterion worth a maximum of 10 points. See RFP for more information.	8
45	Resellers:	Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, the awarded vendor of TIPS. EXAMPLE: Walmart is a reseller of Samsung Electronics. If Samsung were a TIPS awarded vendor, then Samsung would list Walmart as a reseller. (If applicable, vendor should download the Reseller/Dealers spreadsheet from the Attachments section, fill out the form and submit the document in the "Response Attachments" RESELLERS section.	No
46	Prices are guaranteed for?	Vendor agrees to honor the pricing discount off regular catalog (as defined in the RFP document), website, store or shelf pricing for the term of the award?	YES
47	Right of Refusal	Does the proposing vendor wish to reserve the right not to perform under the awarded agreement with a TIPS member at vendor's discretion?	Yes

48 NON-COLLUSIVE BIDDING CERTIFICATE

By submission of this bid or proposal, the Bidder certifies that: (No Response Required)

- 1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;
- 2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor;
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;
- 4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf. Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

49 Texas HB 89- Texas Government code §2270 compliance

Texas 2017 House Bill 89 has been signed into law by the governor and as of September 1, 2017 will become law codified as Texas Government Code § 2270 and 808 et seq. YES

The relevant section addressed by this form reads as follows:

Texas Government Code Sec. 2270.002. PROVISION REQUIRED IN CONTRACT. A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

I verify by my "YES" response to this attribute that, as a company submitting a proposal to this solicitation, that I am authorized to respond for the company and affirm that the company (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract, or any contract with the above-named Texas governmental entity in the future. I further affirm that if our company's position on this issue is reversed and this affirmation is no longer valid, that TIPS will be notified in writing by email to TIPS@TIPS-USA.com within one (1) business day and we understand that our company's failure to affirm and comply with the requirements of Texas Government Code 2270 et seq. shall result in a "no award" determination by TIPS and if a contract exists with TIPS, be grounds for immediate contract termination without penalty to TIPS and Education Service Center Region 8.

FAILURE TO RESPOND "YES" WILL RESULT IN NO CONSIDERATION OF YOUR PROPOSAL.

I swear and affirm that the above is true and correct by a "YES" response.

- 50 CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ      If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS, Richard Powell, 4845 US Highway 271 North, Pittsburg, Texas 75686      No
- You may find the Blank CIQ form on our website at:
- Copy and Paste the following link into a new browser or tab:  
<https://www.tips-usa.com/assets/documents/docs/CIQ.pdf>
- Do you have any conflicts under this statutory requirement?
- 51 Filing of Form CIQ      If yes (above), have you filed a form CIQ as directed here?
- 52 Regulatory Standing      I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.      Yes
- 53 Regulatory Standing      Regulatory Standing explanation of no answer on previous question.
- 54 Antitrust Certification Statements (Tex. Government Code § 2155.005)      By submission of this bid or proposal, the Bidder certifies that:      (No Response Required)
- I affirm under penalty of perjury of the laws of the State of Texas that:
- (1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;
  - (2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
  - (3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law;
  - (4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.



## Instructions for Certification:

(No Response Required)

1. By agreeing to the Attribute question #56, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this

transaction originated may pursue available remedies, including suspension and / or debarment.

56 Suspension or Debarment Certification

Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

By submitting this offer and certifying this section, this bidder:  
Certifies that no suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

57 Non-Discrimination Statement and Certification

In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov). (Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities) All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender.

Not a negotiable term. Failure to agree will render your

proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.

58 2 CFR PART 200 Contract Provisions Explanation

Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members:

(No Response Required)

The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.

The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

59 2 CFR PART 200 Contracts

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.  
Does vendor agree?

Yes

60 2 CFR PART 200 Termination

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Yes

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.  
Does vendor agree?

61	2 CFR PART 200 Clean Air Act	<p>Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).</p> <p>Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.</p> <p>Does vendor agree?</p>	Yes
62	2 CFR PART 200 Byrd Anti-Lobbying Amendment	<p>Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.</p> <p>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein.</p> <p>Does vendor agree?</p>	Yes
63	2 CFR PART 200 Federal Rule	<p>Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)</p> <p>Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$100,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).</p> <p>Does vendor certify that it is in compliance with the Clean Air Act?</p>	Yes

64	2 CFR PART 200 Procurement of Recovered Materials	<p>A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with</p> <p>maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.</p> <p>Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?</p>	Yes
65	Indemnification	<p>The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from</p> <p>indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as</p> <p>ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for</p> <p>any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently</p> <p>performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on</p> <p>behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in</p> <p>the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to</p> <p>indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated</p> <p>damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified</p> <p>with "to the extent permitted by the Constitution and laws of State of Texas."</p> <p>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree</p> <p>to these terms?</p>	Yes

66 Remedies	<p>The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any issues not resolved hereunder must be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.</p> <p>Do you agree to these terms?</p>	No
67 Remedies Explanation of No Answer		DT+ would reserve the right to take part in initial mediations remotely from London UK.
68 Choice of Law	<p>This agreement and any addenda or other additions and all contracts or awards resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.</p> <p>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?</p>	Yes
69 Jurisdiction and Service of Process	<p>Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue</p>	Yes

clauses in contracts with TIPS members may be determined by the parties.  
Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?

70 Alternative Dispute Resolution

Prior to filing of litigation, the parties may select non-binding mediation as a method of conflict resolution for issues arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction. The parties agree that if nonbinding mediation is chosen as a resolution process, the parties must agree to the chosen mediator(s) and that all mediation venue shall be at a location in Camp or Titus, County, Texas agreed by the parties. The parties agree to share equally the cost of the mediation process and venue cost.  
Do you agree to these terms?

No

71 Alternative Dispute Resolution Explanation of No Answer

DT+ would reserve the right to take part in initial mediations remotely from London UK.

72 Infringement(s)

The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved.  
Do you agree to these terms?

No

73 Infringement(s) Explanation of No Answer

Indemnity The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, direct losses, and direct expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, a breach of Vendor's work obligations under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Vendor further agrees to indemnify and hold harmless and defend join TIPS in defending together with TIPS, TIPS Member(s), officers and employees, from and against all claims and suits by third parties for injuries (including death) to an officer, employee, agent, subcontractors, supplier or equipment lessee of the Vendor, arising out of, or resulting from, a breach of Vendor's work obligations under this Agreement whether or not where such claims are based in part upon the negligent acts or omissions of the TIPS, TIPS Member(s), officers, employees, or agents. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. Per Texas Education Code §44.032(f), reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation. Notwithstanding anything to the contrary contained in this Agreement the Vendor's liability under or in connection with this Agreement whether in contract, in negligence or otherwise (other than in respect of personal injury or death or fraud or fraudulent misrepresentation) shall not exceed one million pounds (£1,000,000).

74 Acts or Omissions

The successful vendor will be expected to indemnify and hold harmless the TIPS, its officers, employees, agents, representatives, contractors, assignees and designees from and against any and all liability, actions, claims, demands or suits, and all related costs, attorney's fees and expenses arising out of, or resulting from any acts or omissions of the vendor or its agents, employees, subcontractors, or suppliers in the execution or performance of any agreements

No



ultimately made by TIPS and the vendor.  
Do you agree to these terms?

75 Acts or Omissions Explanation of No Answer

Indemnity The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, direct losses, and direct expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, a breach of Vendor's work obligations under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Vendor further agrees to indemnify and hold harmless and defend join TIPS in defending together with TIPS, TIPS Member(s), officers and employees, from and against all claims and suits by third parties for injuries (including death) to an officer, employee, agent, subcontractors, supplier or equipment lessee of the Vendor, arising out of, or resulting from, a breach of Vendor's work obligations under this Agreement whether or not where such claims are based in part upon the negligent acts or omissions of the TIPS, TIPS Member(s), officers, employees, or agents. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. Per Texas Education Code §44.032(f), reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation. Notwithstanding anything to the contrary contained in this Agreement the Vendor's liability under or in connection with this Agreement whether in contract, in negligence or otherwise (other than in respect of personal injury or death or fraud or fraudulent misrepresentation) shall not exceed one million pounds (£1,000,000).

76 Contract Governance

Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.

Yes

77 Payment Terms and Funding Out Clause

Payment Terms:  
TIPS or TIPS members shall not be liable for interest or late payment fees on past due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Yes

Funding Out Clause:  
Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.  
See statute(s) for specifics or consult your legal counsel. Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.  
Do you agree to these terms?

78 Insurance and Fingerprint Requirements Information

Insurance  
If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance.

Fingerprint  
It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834. Statutory language may be found at: <http://www.statutes.legis.state.tx.us/>  
If the vendor has staff that meet both of these criterion:  
(1) will have continuing duties related to the contracted services; and  
(2) has or will have direct contact with students  
Then you have "covered" employees for purposes of completing the attached form.  
TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at [NCJU@txdps.state.tx.us](mailto:NCJU@txdps.state.tx.us) and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474.  
See form in the next attribute to complete entitled: Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

(No Response Required)

<p>79 Texas Education Code Chapter 22 Contractor Certification for Contractor Employees</p>	<p>Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.</p> <p>Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:</p> <p>(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.</p> <p>I certify that:</p> <p>NONE (Section A) of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.</p> <p>OR</p> <p>SOME (Section B) or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:</p> <p>(1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.</p> <p>(2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.</p> <p>(3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.</p> <p>(4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.</p> <p>Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.</p>	<p>None</p>
<p>80 Solicitation Deviation/Compliance</p>	<p>Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?</p>	<p>Yes</p>

- 81 Solicitation Exceptions/Deviations Explanation
- If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.
- TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.
- In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.
- 82 Agreement Deviation/Compliance
- Does the vendor agree with the language in the Vendor Agreement? No

If the proposing Vendor desires to deviate from the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.

(Requested amendments to TIPS contract. Wording taken from TIPS Vendor Agreement document)

**Indemnity** The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, direct losses, and direct expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, a breach of Vendor's work obligations under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Vendor further agrees to indemnify and hold harmless and defend join TIPS in defending together with TIPS, TIPS Member(s), officers and employees, from and against all claims and suits by third parties for injuries (including death) to an officer, employee, agent, subcontractors, supplier or equipment lessee of the Vendor, arising out of, or resulting from, a breach of Vendor's work obligations under this Agreement whether or not where such claims are based in part upon the negligent acts or omissions of the TIPS, TIPS Member(s), officers, employees, or agents. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. Per Texas Education Code §44.032(f), reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation. Notwithstanding anything to the contrary contained in this Agreement the Vendor's liability under or in connection with this Agreement whether in contract, in negligence or otherwise (other than in respect of personal injury or death or fraud or fraudulent misrepresentation) shall not exceed one million pounds (£1,000,000).

**Novation** If awarded vendor sells or transfers all assets or the entire portion of the assets used to perform this Agreement, a successor in interest must

guarantee to perform all obligations under this Agreement. TIPS reserves the right to accept or reject any new party. A simple change of name agreement will not change the Agreement obligations of awarded vendor.

(DT+ requests this clause is removed)

Marketing Awarded vendor agrees to allow TIPS to use their name and logo within website, marketing materials and advertisement. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS

(DT+ requests reciprocity. Use of DT+ branding requires approval from DT+)

Termination for Convenience  
TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty-day written notice. Termination for convenience is required under Federal Regulations 2 CFR part 200. All purchase orders presented to the Vendor by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded vendor may terminate the agreement with ninety (90) days written notice to TIPS  
4845 US Hwy North, Pittsburg, Texas 75686.

(DT+ requests reciprocity, for the right to cancel the agreement with 30 days notice)

84 Texas Business and Commerce Code § 272 Requirements as of 9-1-2017

SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a "construction contract" includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. "Construction contracts" are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES.

(No Response Required)

85	Yes - No	Disadvantaged/Minority/Women Business Enterprise - D/M/WBE (Required by some participating governmental entities) Vendor certifies that their firm is a D/M/WBE? Vendor must upload proof of certification to the "Response Attachments" D/M/WBE CERTIFICATES section.	No
86	YES or NO	Federal Requirements for Procurement and Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?	NO
87	YES or NO	If yes to #86, do you agree to comply with the following federal requirements? Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (b) Affirmative steps must include:(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.	YES
88	Long Term Cost Evaluation Criterion # 4.	READ CAREFULLY and see in the RFP document under "Proposal Scoring and Evaluation". Points will be assigned to this criterion based on your answer to Attribute 87 of this solicitation in the ION Wave bidding system. Points are awarded if you agree not increase your catalog prices (as defined herein) more than X% annually over the previous year for years two and three and potentially year four, unless an exigent circumstance exists in the marketplace and the excess price increase which exceeds X% annually is supported by documentation provided by you and your suppliers and shared with TIPS, if requested. If you agree NOT to increase prices more than 5%, except when justified by supporting documentation, you are awarded 10 points; if 6% to 14%, except when justified by supporting documentation, you receive 1 to 9 points incrementally. Price increases 14% or greater, except when justified by supporting documentation, receive 0 points.	increases will be 5% or less annually per question

Texas Government Code 2270 Verification Form YES  
Texas 2017 House Bill 89 has been signed into law by the governor and as of September 1, 2017 will be codified as Texas Government Code § 2270 and 808 et seq. The relevant section addressed by this form reads as follows:  
Texas Government Code Sec. 2270.002. PROVISION REQUIRED IN CONTRACT. A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.engaged by  
ESC Region 8/The Interlocal Purchasing System (TIPS)  
4845 Highway 271 North  
Pittsburg,TX,75686  
verify by this writing that the above-named company affirms that it (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract, or any contract with the above-named Texas governmental entity in the future. I further affirm that if our company's position on this issue is reversed and this affirmation is no longer valid, that the above-named Texas governmental entity will be notified in writing within one (1) business day and we understand that our company's failure to affirm and comply with the requirements of Texas Government Code 2270 et seq. shall be grounds for immediate contract termination without penalty to the above-named Texas governmental entity.  
AND  
our company is not listed on and we do not do business with companies that are on the the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

I swear and affirm that the above is true and correct.



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Line Items

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Response Total: \$0.00

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## Certification Regarding Lobbying

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds.

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

**Digital Theatre+**

\_\_\_\_\_  
Name of Organization

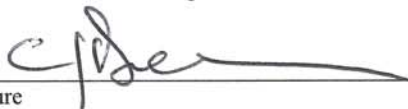
Peninsular House, 30-36 Monument Street, London, EC3R 8NB

\_\_\_\_\_  
Address, City, State and Zip of Organization

**Chris Davison - Head of Channels**

\_\_\_\_\_  
Name & Title of Submitting Official

Signature



19/4/2018

\_\_\_\_\_  
Date

FELONY CONVICTION NOTICE

FOR RESPONSE TO TIPS SOLICITATION

Statutory citation covering notification of criminal history of contractor is found in the Texas Education Code #44.034. Following is an example of a felony conviction notice:

State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

THIS NOTICE IS NOT REQUIRED OF A PUBLICLY-HELD CORPORATION

**Complete only one of the three below: A or B or C.**

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge.

Official: CHRIS DAVISON  
Print Authorized Company Official's Name

A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

Signature of Authorized Company Official: \_\_\_\_\_

**OR**

B. My firm is not owned nor operated by anyone who has been convicted of a felony:

Signature of Authorized Company Official: C. Davison

**OR**

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): \_\_\_\_\_

Details of Conviction(s): \_\_\_\_\_

You may attach another sheet

Signature of Authorized Company Official: \_\_\_\_\_

FAILURE TO PROPERLY COMPLETE THIS FORM AND SUBMIT WITH YOUR RESPONSE MAY RESULT IN A WAIVER OF YOUR RIGHTS UNDER THE LAW TO MAINTAIN CONFIDENTIALITY TREATMENT OF SUBMITTED MATERIALS.

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential information and not subject to public disclosure pursuant to Chapter 552 Tex Gov't Code or other law(s), you **must** make a **copy** of all claimed confidential materials within your proposal and put this COMPLETED form as a cover sheet to said materials then scan, name "CONFIDENTIAL" and upload with your proposal submission. (You must include the confidential information in the submitted proposal as well, the copy uploaded is to indicate which material in your proposal, if any, you deem confidential in the event the District receives a Public Information Request.) Education Service Center Region 8 and TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law. Pricing of solicited product or service may be deemed as public information under Chapter 552 Tex Gov't Code. The Office of Texas Attorney General shall make the final determination whether the information held by Education Service Center Region 8 and TIPS is confidential and exempt from public disclosure.

If you claim that parts of your proposal are confidential, complete the top section below.

I claim part of my proposal to be confidential and **DO NOT** desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials.

\_\_\_\_\_  
Name of company claiming confidential status of material

\_\_\_\_\_  
Printed Name and Title of authorized company officer claiming confidential status of material

\_\_\_\_\_  
Address City State ZIP Phone

ATTACHED ARE COPIES OF \_\_\_\_\_ PAGES OF CONFIDENTIAL MATERIAL FROM OUR PROPOSAL

Signature \_\_\_\_\_ Date \_\_\_\_\_

OR

If you **do not** claim any of your proposal to be confidential, complete the section below only.

**Express Waiver:** I desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

CHRIS DAVISON HEAD OF CHANNELS  
Printed Name authorized company officer Title of authorized company officer

30-36 PENINSULAR HOUSE, MONUMENT ST, LONDON EC3R 8NB  
Address City State ZIP Phone

Signature  Date 23/4/18