

## TIPS VENDOR AGREEMENT

### TIPS RFP240502 Comprehensive Fleet Leasing and Management

The following Vendor Agreement (“Agreement”) creates a legal agreement between The Interlocal Purchasing System (“TIPS”), a government purchasing cooperative and Department of Texas Region 8 Education Service Center and AssetWorks Inc.:

AssetWorks Inc.

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(ENTER ENTITY NAME]

its owners, agents, subsidiaries, and affiliates (together, “Vendor”) (individually, “Party”, and collectively the “Parties”) and this agreement shall exclusively govern the contractual relationship (“Agreement”) between the Parties.

TIPS, a governmental entity and a national purchasing cooperative seeks to provide a valuable and necessary solution to public entities and qualifying non-profits by performing the public procurement solicitation process and awarding compliant contracts to qualified vendors. Then, where the law of a customer’s jurisdiction allows, instead of public entities and qualifying non-profits expending time, money, and resources on the extensive public procurement process, the use of TIPS allows public entities to quickly select and purchase their preferred products or services from qualified, competitively evaluated vendors through cooperative purchasing.

1. **Purpose.** The purpose of this Agreement is to identify the terms and conditions of the relationship between TIPS and Vendor. Public entities and qualifying non-profits that properly join or utilize TIPS (“TIPS Members”) may elect to “piggyback” off of TIPS’ procurements and agreements where the laws of their jurisdiction allow. TIPS Members are not contractual parties to this Agreement.
2. **Authority.** The Parties agree that the signatories below are individual authorized to enter into this Agreement on behalf of their entity and that they are acting under due and proper authority under applicable law.
3. **Definitions.**
  - a. **TIPS Pricing:** The specific pricing, discounts, and other pricing terms and incentives which Vendor submitted and TIPS approved for each respective TIPS Contract awarded to Vendor and all permissible, subsequent pricing updates submitted by Vendor and accepted by TIPS, if any.
  - b. **Authorized Reseller:** A reseller or dealer authorized and added by a Vendor through their online TIPS Vendor Portal to make TIPS sales according to the terms and conditions herein.
  - c. **TIPS Contract:** This Agreement with all incorporated terms, if finalized and agreed to by the Parties.
  - d. **TIPS Sale:** A sale made by Vendor to a TIPS Member under this TIPS Contract.
  - e. **Supplemental Agreement:** The purchase agreement (Purchase Order, Contract, Invoice, etc.) entered into between the TIPS Member Customer and Vendor dictating the terms of the specific TIPS Sale, including but not limited to: shipping, freight, insurance, delivery, fees, cost, delivery expectations and location, returns, refunds, terms, conditions, cancellations, order assistance, etc.
4. **Entire Agreement.** This Agreement resulted from TIPS posting a “TIPS Solicitation” (RFP, RCSP, RFQ, or other) and Vendor submitting a proposal in response to that posted TIPS Solicitation for evaluation and award. The Parties agree that this Agreement consists of the provisions set forth herein and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor’s entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, pricing, accepted responses to questions, and accepted written clarifications of Vendor’s proposal, and any properly included attachments to this Agreement. All documentation and information listed is hereby incorporated by reference as if set forth herein verbatim. In the event of conflict between the terms herein and one of the incorporated documents the terms and conditions herein shall control.
5. **Vendor’s Specific Warranties, Terms, and License Agreements.** Because TIPS serves public entities and non-profits throughout

the nation all of which are subject to specific laws and policies of their jurisdiction, as a matter of standard practice, TIPS does not typically accept a Vendor's specific "Sale Terms" (warranties, license agreements, master agreements, terms and conditions, etc.) on behalf of all TIPS Members. TIPS shall attach Vendor's Master Subscription Agreement ("MSA") to this Agreement to display to interested customers what terms may apply to their Supplemental Agreement with Vendor (if submitted by Vendor for that purpose). However, unless this term of the Agreement is negotiated and modified to state otherwise, those specific Sale Terms are not accepted by TIPS on behalf of all TIPS Members and each Member may choose whether to accept, negotiate, or reject those specific Sale Terms, which must be reflected in a separate agreement between Vendor and the Member in order to be effective.

- 6. Vendor Identity and Contact Information.** It is Vendor's sole responsibility to ensure that all identifying vendor information (name, EIN, d/b/a's, etc.) and contact information is updated and current at all times within the TIPS eBid System and the TIPS Vendor Portal. It is Vendor's sole responsibility to confirm that all e-correspondence issued from tips-usa.com, ionwave.net, and tipsconstruction.com to Vendor's contacts are received and are not blocked by firewall or other technology security. Vendor reserves the right to receive written notice of all communications under this Agreement to its designated Primary Contact. .
- 7. Initiation of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Once verified, Vendor must include the TIPS Contract Number on all purchase communications and sales documents exchanged with the TIPS Member.
- 8. TIPS Sales and Supplemental Agreements.** The terms of the specific TIPS order, including but not limited to: shipping, freight, insurance, delivery, fees, cost, delivery expectations and location, returns, refunds, terms, conditions, cancellations, order assistance, etc., shall be controlled by the purchase agreement (Purchase Order, Contract, Invoice, etc.) (hereinafter "Supplemental Agreement") entered into between the TIPS Member Customer and Vendor only. TIPS is not a party to any Supplemental Agreement. All Supplemental Agreements shall include Vendor's Name, as known to TIPS, and TIPS Contract Name and Number. Vendor accepts and understands that TIPS is not a legal party to TIPS Sales and Vendor is solely responsible for identifying fraud, mistakes, unacceptable terms, or misrepresentations for the specific order prior to accepting. Vendor agrees that any order issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. In the event of a conflict between the terms of this TIPS Vendor Agreement and those contained in any Supplemental Agreement, the provisions set forth herein shall control unless otherwise agreed to and authorized by the Parties in writing within the Supplemental Agreement. Vendor's standard Master Subscription Agreement, including its standard license and support terms, is attached hereto for TIPS Members' consideration.
- 9. Right of Refusal.** Vendor has the right not to sell to a TIPS Member under the awarded agreement at Vendor's discretion unless otherwise required by law.
- 10. Reporting TIPS Sales.** Vendor must report all TIPS Sales to TIPS. If a TIPS sale is initiated by Vendor receiving a TIPS Member's purchase order from TIPS directly, Vendor may consider that specific TIPS Sale reported. Otherwise, with the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either: (1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at [tipspo@tips-usa.com](mailto:tipspo@tips-usa.com) with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or; (2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement. No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at [accounting@tips-usa.com](mailto:accounting@tips-usa.com).
- 11. TIPS Administration Fees.** The collection of administrative fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The administration fee ("TIPS Administration Fee") is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of the amount paid by the TIPS Member for each TIPS Sale, less shipping cost, bond cost, and taxes if applicable and identifiable, which is legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding solicitation and is incorporated herein by reference. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale. The TIPS Administration Fee is assessed on the amount actually paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. Upon receipt of payment for a TIPS Sale, including partial payment (which renders TIPS Administration Fees immediately due), Vendor shall issue to TIPS the corresponding TIPS Administration Fee payment as soon as possible but not later than thirty-one calendar days following Vendor's receipt of payment. Vendor shall pay TIPS via check unless otherwise agreed to by the Parties in writing. Vendor shall include clear documentation with the issued payment dictating to which sale(s) the amount should be applied. Vendor may create a payment report within their TIPS Vendor Portal which is the preferred documentation dictating to which TIPS Sale(s) the amount should be applied. Failure to pay all TIPS Administration Fees pursuant to this provision may result in immediate cancellation of TIPS Vendor Agreement Negotiated

Vendor's TIPS Contract(s) for cause at TIPS' sole discretion as well as the initiation of collection and legal actions by TIPS against Vendor to the extent permitted by law. Any overpayment of participation fees to TIPS by Vendor will be refunded to the Vendor within thirty (30) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date that TIPS received the payment will render the overpayment non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect TIPS Administration Fees due to TIPS pursuant to this Agreement.

- 12. Term of the Agreement.** This Agreement with TIPS is for approximately three years with two (2) consecutive one-year options for renewal as described herein. Renewal options are not automatic and shall only be effective if offered by TIPS at its sole discretion. If TIPS offers a renewal option, the Vendor will be notified via email issued to Vendor's then-listed Primary Contact. The renewal option shall be deemed accepted by Vendor unless Vendor notifies TIPS of its objection to the renewal option in writing and confirms receipt by TIPS.

**Actual Effective Date:** Agreement is effective upon signature by authorized representatives of both Parties. The Effective Date does not affect the "Term Calculation Start Date."

**Term Calculation Start Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, Vendor shall calculate the foregoing term as starting on the last day of the month that "Award Notifications" are anticipated as published in the Solicitation, regardless of the actual Effective Date.

**Example of Term Calculation Start Date:** If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 in this example.

**Contract Expiration Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, the term expiration date shall be three-years from the Term Calculation Start Date.

**Example of Contract Expiration Date:** If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 and the Contract Expiration Date of the resulting initial "three-year" term, (which is subject to an extension(s)) will be May 31, 2026 in this example.

**Option(s) for Renewal:** Any option(s) for renewal shall begin on the Contract Expiration Date, or the date of the expiration of the prior renewal term where applicable, and continue for the duration specified for the renewal option herein.

**Example of Option(s) for Renewal:** In this example, if TIPS offers a one-year renewal and the Contract Expiration Date is May 31, 2026, then the one-year renewal is effective from May 31, 2026 to May 31, 2027.

TIPS may offer to extend Vendor Agreements to the fullest extent the TIPS Solicitation resulting in this Agreement permits.

- 13. TIPS Pricing.** Vendor agrees and understands that for each TIPS Contract that it holds, Vendor submitted, agreed to, and received TIPS' approval for specific pricing, discounts, and other pricing terms and incentives which make up Vendor's TIPS Pricing for that TIPS Contract ("TIPS Pricing"). Vendor confirms that Vendor will not add the TIPS Administration Fee as a charge or line-item in a TIPS Sale. Vendor hereby certifies that Vendor shall only offer goods and services through this TIPS Contract if those goods and services are included in or added to Vendor's TIPS Pricing and approved by TIPS. TIPS reserves the right to review Vendor's pricing update requests as specifically as line-item by line-item to determine compliance. However, Vendor contractually agrees that all submitted pricing updates shall be within the original terms of the Vendor's TIPS Pricing (scope, proposed discounts, price increase limitations, and other pricing terms and incentives originally proposed by Vendor) such that TIPS may accept Vendor's price increase requests as submitted without additional vetting at TIPS discretion. Any pricing quoted by Vendor to a TIPS Member or on a TIPS Quote shall never exceed Vendor's TIPS Pricing for any good or service offered through TIPS. TIPS Pricing price increases and modifications, if permitted, will be honored according to the terms of the solicitation and Vendor's proposal, incorporated herein by reference. TIPS agrees to cooperate with Vendor to update TIPS Pricing in response to causes outside Vendor's reasonable control such as government action or inaction, tariff, etc.

- 14. Indemnification of TIPS.** VENDOR AGREES TO INDEMNIFY AND DEFEND TIPS, TIPS OFFICERS, TIPS EMPLOYEES, TIPS DIRECTORS, AND TIPS TRUSTEES (THE "TIPS INDEMNITEES") FROM AND AGAINST ALL CLAIMS AND SUITS BY THIRD-PARTIES FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), REAL OR TANGIBLE PROPERTY DAMAGES, LOSSES, EXPENSES, FEES, INCLUDING COURT COSTS, REASONABLE ATTORNEY'S FEES (IN EACH CASE IN THE AMOUNT FINALLY AWARDED),, DIRECTLY ARISING OUT OF VENDOR'S PERFORMANCE IN BREACH OF THIS AGREEMENT (INCLUDING THE

PERFORMANCE OF VENDOR'S OFFICERS, EMPLOYEES), REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION CAUSES OF ACTION BASED UPON COMMON, CONSTITUTIONAL, OR STATUTORY LAW OR BASED TO THE EXTENT BASED UPON ALLEGATIONS OF NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS ON THE PART OF VENDOR, ITS OFFICERS, EMPLOYEES, AGENTS. NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR REAL OR TANGIBLE PROPERTY DAMAGE ARE PERMITTED OR AGREED TO BY TIPS.

SUBJECT TO THE FOREGOING, TIPS AGREES THAT VENDOR SHALL NOT BE LIABLE FOR LOST PROFITS OR LOSS OF BUSINESS (WHETHER DIRECT OR INDIRECT); SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (SUCH AS LOSS OF: USE, REVENUE, ACTUAL OR ANTICIPATED PROFITS OR SAVINGS, BUSINESS OPPORTUNITIES, DATA, GOODWILL, PRIVACY, REPUTATION); OR ANY LIABILITY (HOWEVER CALCULATED OR ARISING) WHICH IN THE AGGREGATE EXCEEDS AMOUNTS PAID TO VENDOR UNDER ALL SUPPLEMENT AGREEMENTS DURING THE 12-MONTHS PRECEDING THE DATE ON WHICH LIABILITY AROSE

15. **Indemnification and Assumption of Risk – Vendor Data.** VENDOR AGREES THAT, AS PART OF ITS PROPOSAL, IT IS VOLUNTARILY PROVIDING DATA (INCLUDING BUT NOT LIMITED TO: VENDOR INFORMATION, VENDOR DOCUMENTATION, VENDOR'S PROPOSALS, VENDOR PRICING SUBMITTED OR PROVIDED TO TIPS, TIPS CONTRACT DOCUMENTS, TIPS CORRESPONDENCE, VENDOR LOGOS AND IMAGES, VENDOR'S CONTACT INFORMATION, VENDOR'S BROCHURES AND COMMERCIAL INFORMATION, VENDOR'S FINANCIAL INFORMATION, VENDOR'S CERTIFICATIONS, AND ANY OTHER VENDOR INFORMATION OR DOCUMENTATION, INCLUDING WITHOUT LIMITATION SOFTWARE AND SOURCE CODE UTILIZED BY VENDOR, SUBMITTED TO TIPS BY VENDOR AND ITS AGENTS) ("VENDOR DATA") TO TIPS. FOR THE SAKE OF CLARITY, AND WITHOUT LIMITING THE BREADTH OF THE INDEMNITY OBLIGATIONS IN SECTION 14 ABOVE, VENDOR AGREES TO INDEMNIFY THE TIPS INDEMNITEES FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, ACTIONS, DEMANDS, ALLEGATIONS, SUITS, JUDGMENTS, COSTS, EXPENSES, FEES, INCLUDING COURT COSTS, REASONABLE ATTORNEY'S FEES, DIRECTLY ARISING OUT OF: ALLEGATIONS OR CLAIMS THAT ANY VENDOR DATA INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD-PARTY OR VENDOR; provided, however, such defense and payments are conditioned on: (a) Vendor shall be immediately notified; (b) Vendor shall have sole control of any defense, negotiations, settlements, or compromises; and (c) Vendor shall have the option to either: (i) procure a non-infringing license; (ii) modify it to be non-infringing; or (iii) refund a depreciated credit for which Parties agree a five (5) year useful life shall apply.
16. **Procedures Related to Indemnification.** In the event that an indemnity obligation arises, Vendor shall pay all amounts finally awarded and any settlements that Vendor has approved and – if it has accepted its indemnity obligation without qualification – control the legal defense to such claim or cause of action, including without limitation attorney selection, strategy, discovery, trial, appeal, and settlement, and TIPS shall provide all commercially reasonable assistance requested by Vendor. In controlling any defense, Vendor shall ensure that all assertions of governmental immunity and all applicable pleas and defenses shall be promptly asserted.
17. **Indemnity for Underlying Sales and Supplemental Agreements.** The Parties agree that TIPS shall not be liable for any claims arising out of Vendor's TIPS Sales or Supplemental Agreements and disputes shall be handled in accordance with the terms of the underlying Supplemental Agreement(s) entered into between Vendor and Customer. Vendor acknowledges that TIPS is not a dealer, subcontractor, agent, or reseller of Vendor's goods and services and shall not be responsible for any claims arising out of alleged insufficiencies or defects in Vendor's goods and services, should any arise.
18. **Confidentiality of Vendor Data.** Vendor understands and agrees that by signing this Agreement, all Vendor Data is hereby released to TIPS, TIPS Members, and TIPS third-party administrators to effectuate Vendor's TIPS Contract except as provided for herein. The Parties agree that Vendor Data is accessible by all TIPS Members as if submitted directly to that TIPS Member Customer for purchase consideration. If Vendor otherwise considers any portion of Vendor's Data to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code (the "Public Information Act") or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form which is required to be submitted as part of Vendor's proposal resulting in this Agreement and incorporated by reference. The Confidentiality Claim Form included in Vendor's proposal and incorporated herein by reference is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a Public Information Request. If TIPS receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor Data deemed confidential by you in this manner, 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, including Attorney General determination and opinion. In the event that TIPS receives a written request for information pursuant to the Public Information Act that affects Vendor's interest in any information or data furnished to TIPS by Vendor, and TIPS requests an opinion from the Attorney General, Vendor may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Public Information Act. Vendor is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Public Information Act. Notwithstanding any other information provided in this solicitation or Vendor designation of certain Vendor Data as confidential or proprietary, Vendor's acceptance of this TIPS

Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's Data, including any information deemed confidential or proprietary, to TIPS Members or as ordered by a Court or government agency, including without limitation the Texas Attorney General. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members as required by law.

- 19. Vendor's Authorized Resellers.** TIPS recognizes that many vendors operate in the open market through the use of resellers or dealers. For that reason, TIPS permits Vendor to authorize Authorized Resellers within its Vendor Portal and make TIPS Sales through the Authorized Reseller(s). Once authorized by Vendor in the Vendor Portal, the Authorized Reseller(s) may make TIPS sales to TIPS Members. However, all purchase documents must include: (1) Authorized Reseller's Name; (2) Vendor's Name, as known to TIPS, and; (3) Vendor's TIPS Contract Name and Number under which it is making the TIPS Sale. Either Vendor or Reseller may report the sale pursuant to the terms herein. However, Vendor agrees that it is legally responsible for all reporting and fee payment as described herein for TIPS Sales made by Authorized Resellers. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. The Parties intend that Vendor shall be responsible and liable for TIPS Sales made by Vendor's Authorized Resellers. Vendor agrees that it is voluntarily authorizing this Authorized Reseller and in doing so, Vendor agrees that it is doing so at its own risk and agrees to protect and indemnify TIPS in accordance with Sections 14-17 above related to Authorized Reseller TIPS Sales made pursuant to this Agreement or purporting to be made pursuant to this Agreement that may be asserted against Vendor whether rightfully brought or otherwise. The Parties further agree that it is no defense to Vendor's breach of this Agreement that an Authorized Reseller caused Vendor of breach this Agreement.
- 20. Circumvention of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Any request for quote or customer purchase initiated through or referencing a TIPS Contract shall be completed through TIPS pursuant to this Agreement.
- 21. State of Texas Franchise Tax.** By signature hereon, Vendor hereby certifies that Vendor is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Chapter 171 of the Texas Tax Code.
- 22. Termination.**
- A) Termination for Convenience. TIPS may, by written notice to Vendor, terminate this Agreement for convenience, in whole or in part, at any time by giving thirty (30) days' written notice to Vendor of such termination, and specifying the effective date thereof.
  - B) Termination for Cause. If Vendor fails to materially perform pursuant to the terms of this Agreement, TIPS shall provide written notice to Vendor specifying the default. If Vendor does not cure such default within thirty (30) days, TIPS may terminate this Agreement, in whole or in part, for cause.
  - C) Vendor's Termination. If TIPS fails to materially perform pursuant to the terms of this Agreement, Vendor shall provide written notice to TIPS specifying the default ("Notice of Default"). If TIPS does not cure such default within thirty (30) days, Vendor may terminate this Agreement, in whole or in part, for cause. If Vendor terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
  - D) Upon termination, all TIPS Sale orders previously accepted by Vendor shall be fulfilled and Vendor shall be paid for all TIPS Sales executed pursuant to the applicable Supplemental Agreement terms. All TIPS Sale orders presented to Vendor but not fulfilled by Vendor, prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. TIPS shall submit to Vendor an invoice for any outstanding TIPS Administration Fees and Vendor shall pay such fees and expenses within 30 calendar days of receipt of such valid TIPS invoice. Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS' sole discretion and that any Vendor may be removed from the TIPS program at any time with or without cause. This termination clause does not affect Supplemental Agreements pursuant to this term regarding termination and the Survival Clause term.
  - E) Vendor hereby waives any and all claims for damages, including, but not limited, to consequential damages or lost profits, that might arise from TIPS' act of terminating this Agreement.
- 23. Survival Clause.** It is the intent of the Parties that this Agreement to any TIPS Sale made during the life of this Agreement even if made on or near the Contract Expiration Date as defined herein. Thus, all TIPS Sales, including but not limited to: leases, service

agreements, license agreements, open purchase orders, warranties, and contracts, even if they extend months or years past the TIPS Contract Expiration Date, shall survive the expiration or termination of this Agreement subject to the terms and conditions of the Supplemental Agreement between Customer and Vendor or unless otherwise specified herein.

- 24. Audit Rights.** Due to transparency statutes and public accountability requirements of TIPS, Vendor shall at their sole expense, maintain documentation of all TIPS Sales for a period of three years from the time of the TIPS Sale. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Vendor's TIPS Pricing or TIPS Sales with thirty-days' notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with Vendor's TIPS Pricing, TIPS shall have the ability to conduct the audit internally or may engage a third-party auditing firm, with thirty-days' notice, to investigate any possible non-compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the format in which such records exist at Vendor's office, or other location acceptable to TIPS at TIPS expense.
- 25. Conflicts of Interest.** The Parties confirm that they have not offered, given, or accepted, nor intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, service to the other in connection with this Agreement. Vendor affirms that, to the best of Vendor's knowledge, this Agreement has been arrived at independently, and is awarded 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. Vendor agrees that it has disclosed any necessary affiliations with Region 8 Education Service Center and the TIPS Department, if any, through the Conflict of Interest attachment provided in the solicitation resulting in this Agreement.
- 26. Volume of TIPS Sales.** Nothing in this Agreement or any TIPS communication may be construed as a guarantee that TIPS or TIPS Members will submit any TIPS orders to Vendor at any time.
- 27. Compliance with the Law.** The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations applicable to their entity in connection with the programs contemplated under this Agreement.
- 28. Severability.** If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, then such term(s) or provision(s) shall be deemed restated to reflect the original intention of the Parties as nearly as possible in accordance with applicable law and the remainder of this Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such holding causes the obligations of the Parties hereto to be impossible to perform or shall render the terms of this Agreement to be inconsistent with the intent of the Parties hereto.
- 29. 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 through no fault of its own then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon. Upon delivering such notice, the obligation of the affected party, so far as it is affected by such Force Majeure as described, shall be suspended during the continuance of the inability then claimed but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.
- 30. Immunity.** Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.
- 31. Insurance Requirements.** Vendor agrees to maintain the following minimum insurance requirements for the duration of this Agreement. All policies held by Vendor to adhere to this term shall be written by a carrier with a financial size category of VII and at least a rating of "A-" by A.M. Best Key Rating Guide. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing.

General Liability:           \$1,000,000    each    Occurrence/Aggregate

Automobile Liability: \$300,000 Includes owned, hired & non-owned  
Workers' Compensation: Statutory limits for the jurisdiction in which the Vendor performs under this Agreement. If Vendor performs in multiple jurisdictions, Vendor shall maintain the statutory limits for the jurisdiction with the greatest dollar policy limit requirement.  
Umbrella Liability: \$1,000,000 each Occurrence/Aggregate

32. **Waiver.** No waiver of any single breach or multiple breaches of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting regarding any breach of any provision shall be construed to be a waiver of such breach.
33. **Binding Agreement.** This Agreement shall be binding and inure to the benefit of the Parties hereto and their respective heirs, legal successors, and assigns.
34. **Headings.** The paragraph headings contained in this Agreement are included solely for convenience of reference and shall not in any way affect the meaning or interpretation of any of the provisions of this Agreement.
35. **Choice of Law and Venue.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas. Any proceeding, claim, action, or alternative dispute resolution arising out of or relating to this Agreement or involving TIPS shall be brought in a State Court of competent jurisdiction in Camp County, Texas, or if Federal Court is legally required, a Federal Court of competent jurisdiction in the Eastern District of 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 and 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.
36. **Relationship of the Parties.** Nothing contained in this Agreement shall be construed to make one Party an agent of the other Party nor shall either party have any authority to bind the other in any respect, unless expressly authorized by the other party in writing. The Parties are independent contractors and nothing in this Agreement creates a relationship of employment, trust, agency or partnership between them.
37. **Assignment.** No assignment of this Agreement or of any duty or obligation of performance hereunder, shall be made in whole or in part by a Party hereto without the prior written consent of the other Party. Written consent of TIPS shall not be unreasonably withheld.
38. **Minimum Condition and Warranty Requirements for TIPS Sales.** All goods quoted or sold through a TIPS Sale shall be new unless clearly stated otherwise in writing. All new goods and services shall include the applicable manufacturers minimum standard warranty unless otherwise agreed to in the Supplemental Agreement. Warranties offered by Vendor are detailed in the MSA attached hereto. Vendor reserves the right to update its pricing to the extent of deviations therefrom
39. **Minimum Customer Support Requirements for TIPS Sales.** Vendor shall provide timely and commercially reasonable support for TIPS Sales or as agreed to in the applicable Supplemental Agreement. Support terms offered by Vendor are detailed in the MSA attached hereto. Vendor reserves the right to update its pricing to the extent of deviations therefrom.
40. **Minimum Shipping Requirements for TIPS Sales.** Vendor shall ship, deliver, or provide ordered goods and services within a commercially reasonable time as detailed in the Supplement Agreement between Vendor and TIPS Member.
41. **Minimum Vendor License Requirements.** Vendor shall maintain, in current status, all federal, state, and local licenses, bonds and permits required for the operation of the business conducted by Vendor. Vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the TIPS Agreement. TIPS and TIPS Members reserve the right to stop work and/or cancel a TIPS Sale or terminate this or any TIPS Sale Supplemental Agreement involving Vendor if Vendor's license(s) required to perform under this Agreement or under the specific TIPS Sale have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.
42. **Minimum Vendor Legal Requirements.** Vendor shall remain aware of and comply with this Agreement and all local, state, and federal laws governing the sale of products/services offered by Vendor under this contract. Such applicable laws, ordinances, and policies must be complied with even if not specified herein.
43. **Minimum Site Requirements for TIPS Sales (when applicable to TIPS Sale).**

**Cleanup:** When performing work on site at a TIPS Member's property, Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by the TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

**Preparation:** Vendor shall not begin a project for which a TIPS Member has not prepared the site, unless Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in the TIPS Sale. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements. Vendor's order form will identify site readiness requirements that are responsibility of the TIPS Member.

**Registered Sex Offender Restrictions:** For work to be performed at schools, Vendor agrees that no employee of Vendor or a subcontractor 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 unless otherwise agreed by the TIPS Member. Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the TIPS Sale at the TIPS Member's discretion. 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:** 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. 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 the TIPS Member's or local smoking statutes, codes, ordinances, and policies.

44. **Payment for TIPS Sales.** TIPS Members shall make payments for TIPS Sales directly to Vendor as otherwise agreed to in the applicable Supplemental Agreement after receipt of the invoice and in compliance with applicable payment statutes. Regardless of how payment is issued or received for a TIPS Sale, Vendor is responsible for all reporting and TIPS Administration Fee payment requirements as stated herein.
45. **Marketing.** Vendor agrees to allow TIPS to use their name and logo within the TIPS website, database, marketing materials, and advertisements subject to Vendor's prior written approval. Any use of TIPS' name and logo or any form of publicity, inclusive of press release, regarding this Agreement by Vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to [tips@tips-usa.com](mailto:tips@tips-usa.com). For marketing efforts directed to TIPS Members, Vendor must request and execute a separate Joint Marketing Disclaimer, at [marketing@tips-usa.com](mailto:marketing@tips-usa.com), before TIPS can release contact information for TIPS Member entities for the purpose of marketing your TIPS contract(s). Vendor must adhere to strict Marketing Requirements once a disclaimer is executed. The Joint Marketing Disclaimer is a supplemental agreement specific to joint marketing efforts and has no effect on the terms of the TIPS Vendor Agreement.
46. **Tax Exempt Status of TIPS Members.** Most TIPS Members are tax exempt entities and the laws and regulations applicable to the specific TIPS Member customer shall control.
47. **Automatic Renewal Limitation for TIPS Sales.** No TIPS Sale may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. 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. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.
48. **Choice of Law Limitation for TIPS Sales.** Vendor agrees that if any "Choice of Law" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the TIPS Sale agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.
49. **Venue Limitation for TIPS Sales.** Vendor agrees that if any "Venue" provision is included in any TIPS Sale Agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.



**50. Indemnity Limitation for TIPS Sales.** Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any TIPS sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.

**51. Arbitration Limitation for TIPS Sales.** Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may not require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

**Exhibit A – Vendor’s Master Subscription Agreement for TIPS Member Customer’s consideration and final approval.**

In Witness Whereof, the parties hereto, each acting under due and proper authority, have signed this Agreement.

**TIPS VENDOR AGREEMENT SIGNATURE FORM TIPS RFP**

**2240502 Comprehensive Fleet Leasing and Management**

Vendor Name: AssetWorks Inc.

Vendor Address: 1001 Old Cassatt Rd Suite 204

City: Berwyn State: PA Zip Code: 19312

Vendor Authorized Signatory Name: Greg Richards

Vendor Authorized Signatory Title: General Manager

Vendor Authorized Signatory Phone: (610) 687-9202

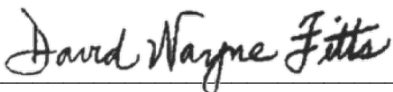
Vendor Authorized Signatory Email: POC: allan.richardson@assetworks.com

Vendor Authorized Signature:  Date: 3/14/2025

*(The following is for TIPS completion only)*

TIPS Authorized Signatory Name: Dr. Fitts

TIPS Authorized Signatory Title: Executive Director

TIPS Authorized Signature:  Date: 3/14/2025



**240502**  
**ASSETWORKS**  
**Supplier Response**

**Event Information**

Number: 240502  
Title: Comprehensive Fleet Leasing and Management  
Type: Request for Proposal  
Issue Date: 5/2/2024  
Deadline: 6/21/2024 03:00 PM (CT)  
Notes: This is a solicitation issued by The Interlocal Purchasing System (TIPS), a department of Texas Region 8 Education Service Center. It is an Indefinite Delivery, Indefinite Quantity ("IDIQ") solicitation. It will result in contracts that provide, through adoption/"piggyback" an indefinite quantity of supplies/services, during a fixed period of time, to TIPS public entity and qualifying non-profit "TIPS Members" throughout the nation. Thus, there is no specific project or scope of work to review. Rather this solicitation is issued as a prospective award for utilization when any TIPS Member needs the goods or services offered during the life of the agreement.

**IF YOU CURRENTLY HOLDS TIPS CONTRACT 190402 FLEET LEASING AND MANAGEMENT ("190402"), YOU MUST RESPOND TO THIS SOLICITATION TO PREVENT LAPSE OF CONTRACT UNLESS YOU HOLD ANOTHER CURRENT TIPS CONTRACT THAT COVERS ALL OF YOUR FLEET OFFERINGS. THIS AWARDED CONTRACT WILL REPLACE YOUR EXPIRING TIPS CONTRACT 190402.**

**IF YOU HOLD ANOTHER TIPS CONTRACT OTHER THAN 190402 WHICH COVERS ALL OF YOUR FLEET OFFERINGS AND YOU ARE SATISFIED WITH IT, THERE IS NO NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU PREFER TO HOLD BOTH CONTRACTS.**

## Contact Information

Address: Region 8 Education Service Center  
4845 US Highway 271 North  
Pittsburg, TX 75686

Phone: +1 (866) 839-8477

Email: [bids@tips-usa.com](mailto:bids@tips-usa.com)

## ASSETWORKS Information

Contact: Charity Warlick  
Address: 1001 Old Cassatt Rd  
Suite 204  
Berwyn, PA 19312  
Phone: (610) 687-9202

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

Charity Warlick  
*Signature*

rfps@assetworks.com  
*Email*

Submitted at 6/21/2024 01:21:56 PM (CT)

## Requested Attachments

### Vendor Agreement

240502 Vendor Agreement.pdf

The Vendor Agreement must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, Vendor Name placed in the line provided at the top, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement, Vendor may assert so in the Attribute Questions and those shall be addressed during evaluation.

### Vendor Agreement Signature Form

Vendor Agreement Signature Form.pdf

The Vendor Agreement Signature Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement, Vendor may leave the signature line of this page blank and assert so in the Attribute Questions and those shall be addressed during evaluation.

### Pricing Form 1

240502 Pricing Form 1.xlsx

Pricing Form 1 must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

### Pricing Form 2

240502 Pricing Form 2.xlsx

Pricing Form 2 must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

### Required Confidentiality Claim Form

240502 Required Confidentiality Claim Form.pdf

The Required Confidentiality Claim Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. This is the only way for Vendor to assert confidentiality of any information submitted.

### Reference Form

240502 Reference Form.xls

The Reference Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. The Reference Form must be uploaded in Excel format.

### Current Form W-9

AW\_W9 2024.pdf

Vendor must upload their current IRS Tax Form W-9. The legal name, EIN, and d/b/a's listed should match the information provided herein exactly. This form will be utilized by TIPS to properly identify your entity.

### Alternate or Supplemental Pricing Documents

AssetWorks Catalog Pricing.xlsx

Optional. If when completing Pricing Form 1 & Pricing Form 2 you direct TIPS to view additional, alternate, or supplemental pricing documentation, you may upload that documentation.

**Vendor’s Warranties, Terms, and Conditions (Supplemental Vendor Information Only)**

*No response*

Optional. If Vendor would like to display any standard warranties, terms, or conditions which are often applicable to their offerings for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

**Supplemental Vendor Information (Supplemental Vendor Information Only)**

*No response*

Optional. If Vendor would like to display or include any brochures, promotional documents, marketing materials, or other Vendor Information for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

**Vendor Logo (Supplemental Vendor Information Only)**

*No response*

Optional. If Vendor desires that their logo be displayed on their public TIPS profile for TIPS and TIPS Member viewing, Vendor may upload that logo at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

**Certificates & Licenses (Supplemental Vendor Information Only)**

*No response*

Optional. If Vendor would like to display any applicable certificates or licenses (including HUB certificates) for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

**Disclosure of Lobbying Activities - Standard Form - LLL**

*No response*

Do not upload this form unless Vendor has reportable lobbying activities. There are Attributes entitled, “2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment – Continued.” Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Disclosure of Lobbying Activities – Standard Form - LLL must be downloaded from the “Attachments” section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location.

**Conflict of Interest Questionnaire - Form CIQ**

*No response*

Do not upload this form unless you have a reportable conflict with TIPS. There is an Attribute entitled “Conflict of Interest Questionnaire Requirement” immediately followed by an Attribute entitled “Conflict of Interest Questionnaire Requirement – Form CIQ – Continued.” Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Conflict of Interest Questionnaire – Form CIQ must be downloaded from the “Attachments” section of the IonWave eBid System, reviewed, properly completed, and uploaded at this location.

**Bid Attributes**

<b>1</b>	<p><b>Disadvantaged/Minority/Women Business &amp; Federal HUBZone</b></p> <p>Some participating public entities are required to seek Disadvantaged/Minority/Women Business &amp; Federal HUBZone (“D/M/WBE/Federal HUBZone”) vendors. Does Vendor certify that their entity is a D/M/WBE/Federal HUBZone vendor?</p> <p>If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.</p> <p><input type="text" value="NO"/></p>
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**2 Historically Underutilized Business (HUB)**

Some participating public entities are required to seek Historically Underutilized Business (HUB) vendors as defined by the Texas Comptroller of Public Accounts Statewide HUB Program. Does Vendor certify that their entity is a HUB vendor?

If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

No

**3 National Coverage**

Can the Vendor provide its proposed goods and services to all 50 US States?

Yes - All 50 States

**4 States Served**

If Vendor answered "No" to the question entitled "National Coverage," please list all states where vendor can provide the goods and services proposed directly below. Your response may dictate which potential TIPS Member customers consider purchasing your offerings.

No response

**5 Description of Vendor Entity and Vendor's Goods & Services**

If awarded, this description of Vendor and Vendor's goods and services will appear on the TIPS website for customer/public viewing.

AssetWorks FleetFocus is a web-based, integrated fleet and asset management solution housed on a single database (Oracle or MSSQL) that provides customers a streamlined approach to managing their fleet's needs. FleetFocus's capabilities provide real management input and analysis, which in turn, helps operations meet their long- and short-term productivity and financial goals. These potential savings result from a wide range of management actions taken in response to conditions identified or highlighted by FleetFocus, such as: Cradle-to-Grave Equipment and Vehicle Tracking Work Order Management Warranty Management Parts Inventory Management Drill Down Reporting and Key Performance Indicator (KPI) Dashboards Role-Based System Security Latest Web-Based Technology FleetFocus is a comprehensive, proprietary software that can be purchased as an on premise, SaaS, or vendor-hosted solution. It is capable of tracking an unlimited number of equipment units and supports an unlimited number of workstations from any number of locations. FleetFocus tracks all functions related to the maintenance of equipment, including processing repair and PM work orders, commercial and warranty work as well as tracking operating expenses such as inventory, labor, fuel, oil, indirect expenses and licensing costs. FleetFocus uses role-based security and allows specific access to be tailored through web-portals displaying to the user those functions specific to his or her job. Additional optional modules offer functionality related to motor pool reservation tracking and AVL/GPS integration. All delivered modules are fully integrated and operate seamlessly within the application.

**6 Primary Contact Name**

Please identify the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract.

Rick Sysol

**7 Primary Contact Title**

Primary Contact Title

Director of Sales & Marketing Operations

<b>8</b>	<p><b>Primary Contact Email</b></p> <p>Please enter a valid email address that will definitely reach the Primary Contact.</p> <input type="text" value="rick.sysol@assetworks.com"/>
<b>9</b>	<p><b>Primary Contact Phone</b></p> <p>Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).</p> <p>Please provide the accurate and current phone number where the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly.</p> <input type="text" value="6102258339"/>
<b>10</b>	<p><b>Primary Contact Fax</b></p> <p>Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).</p> <input type="text" value="No response"/>
<b>11</b>	<p><b>Primary Contact Mobile</b></p> <p>Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).</p> <input type="text" value="No response"/>
<b>12</b>	<p><b>Secondary Contact Name</b></p> <p>Please identify the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract.</p> <input type="text" value="Alan Richardson"/>
<b>13</b>	<p><b>Secondary Contact Title</b></p> <p>Secondary Contact Title</p> <input type="text" value="National Account Manager"/>
<b>14</b>	<p><b>Secondary Contact Email</b></p> <p>Please enter a valid email address that will definitely reach the Secondary Contact.</p> <input type="text" value="alan.richardson@assetworks.com"/>
<b>15</b>	<p><b>Secondary Contact Phone</b></p> <p>Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).</p> <p>Please provide the accurate and current phone number where the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly.</p> <input type="text" value="8172436776"/>
<b>16</b>	<p><b>Secondary Contact Fax</b></p> <p>Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).</p> <input type="text" value="No response"/>



1 7	<b>Secondary Contact Mobile</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="No response"/>
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1 8	<b>Administration Fee Contact Name</b> Please identify the individual who will be responsible for all payment, accounting, and other matters related to Vendor's TIPS Administration Fee due to TIPS for the duration of the contract. <input type="text" value="Tien Quan"/>
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1 9	<b>Administration Fee Contact Email</b> Please enter a valid email address that will definitely reach the Administration Fee Contact. <input type="text" value="tien.quan@assetworks.com"/>
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2 0	<b>Administration Fee Contact Phone</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="6106879202"/>
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2 1	<b>Purchase Order and Sales Contact Name</b> Please identify the individual who will be responsible for receiving and processing purchase orders and sales under the TIPS Contract. <input type="text" value="Alan Richardson"/>
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2 2	<b>Purchase Order and Sales Contact Email</b> Please enter a valid email address that will definitely reach the Purchase Order and Sales Contact. <input type="text" value="alan.richardson@assetworks.com"/>
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2 3	<b>Purchase Order and Sales Contact Phone</b> Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477). <input type="text" value="8172436776"/>
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2 4	<b>Company Website</b> Company Website (Format - www.company.com) <input type="text" value="www.assetworks.com"/>
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2 5	<b>Entity D/B/A's and Assumed Names</b> You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.  In this question, please identify all of your entity's assumed names and D/B/A's. Please note that you will be identified publicly by the Legal Name under which you respond to this solicitation unless you organize otherwise with TIPS after award. <input type="text" value="No response"/>
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2 6	<b>Primary Address</b> Primary Address <input type="text" value="1001 Old Cassatt Rd"/>
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2 7	<b>Primary Address City</b>
	Primary Address City <input type="text" value="Berwyn"/>

2 8	<b>Primary Address State</b>
	Primary Address State (2 Digit Abbreviation) <input type="text" value="PA"/>

2 9	<b>Primary Address Zip</b>
	Primary Address Zip <input type="text" value="19312"/>

3 0	<b>Search Words Identifying Vendor</b>
	Please list all search words and phrases to be included in the TIPS database related to your entity. <b>Do not</b> list words which are not associated with the bid category/scope (See bid title for general scope). This will help users find you through the TIPS website search function. You may include product names, manufacturers, specialized services, and other words associated with the scope of this solicitation. <input type="text" value="AssetWorks, FleetFocus, FuelFocus, AssetWorks GPS, M5, FA, FuelFocusEV, AssetWorks EAM,"/>

3 1	<b>Certification of Vendor Residency (Required by the State of Texas)</b>
	Does Vendor's parent company or majority owner:  (A) have its principal place of business in Texas; <b>or</b> (B) employ at least 500 persons in Texas?  Texas Education Code Section 44.031 requires that this information be considered in evaluation for certain contracts. However, Vendor response does not affect points, scoring, or potential award.  <input type="text" value="No"/>

3 2	<b>Vendor's Principal Place of Business (City)</b>
	In what city is Vendor's principal place of business located? <input type="text" value="Berwyn"/>

3 3	<b>Vendor's Principal Place of Business (State)</b>
	In what state is Vendor's principal place of business located? <input type="text" value="PA"/>

3 4	<b>Vendor's Years in Business</b>
	How many years has the business submitting this proposal been operating in its current capacity and field of work? <input type="text" value="45"/>

3  
5 **Certification Regarding Entire TIPS Agreement**

Vendor agrees that, if awarded, Vendor's final TIPS Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract.

Does Vendor agree?

Yes, Vendor agrees

3  
6 **Minimum Percentage Discount Offered to TIPS Members on all Goods and Services (READ CAREFULLY)**

**Please read thoroughly and carefully as an error on your response can render your contract award unusable.**

TIPS Members often turn to TIPS Contracts for ease of use and to receive discounted pricing.

***What is the minimum percentage discount that you can offer TIPS Members off of all goods and service pricing (whether offered through Pricing Form 1, Pricing Form 2, or in another accepted format) that you offer? Only limited goods/services specifically identified and excluded from this discount in Vendor's original proposal may be excluded from this discount.***

Vendor must respond with a percentage from 0%-100%. The percentage discount that you input below will be applied to your "Catalog Pricing", as defined in the solicitation, for all TIPS Sales made during the life of the contract. You cannot alter this percentage discount once the solicitation legally closes. You will always be required to discount every TIPS Sale by the percentage included below with the exception of limited goods/services specifically identified and excluded from this discount in Vendor's original proposal. If you add goods or services to your "Catalog Pricing" during the life of the contract, you will be required to sell those new items with this discount applied.

**Example:** In this example, you enter a 10% minimum percentage discount below. In year-one of your TIPS Contract, your published "Catalog Pricing" (website/store/published pricing) for "Tablet A" is \$100 and for "Tablet Set-Up Service" is \$100. In this example, you must sell those items under the TIPS Contract at the proposed 10% discounted price of: "Tablet A" - \$90, "Tablet Set-Up Service" - \$90. In year two of your TIPS Contract, you update your "Catalog Pricing" with the market. You add "Tablet B" to your "Catalog Pricing" for \$200 and have increased the price of "Tablet A" to \$110 and the price of "Tablet Set-Up Service" to \$110. In this example, after the "Catalog Pricing" update, you must still sell those items under the TIPS Contract at the proposed 10% discounted price of: "Tablet A" - \$99, "Tablet Set-Up Service" - \$99, and "Tablet B" - \$180.00.

With the exception of limited goods/services specifically identified and excluded from this discount in Vendor's original proposal, if you cannot honor the discount on all goods and items now included or which may be added in the future with certainty, then you should offer a lesser discount percentage below.

***What is the minimum percentage discount that you can offer TIPS Members off of all goods and service pricing (whether offered through Pricing Form 1, Pricing Form 2, or in another accepted format) that you offer?***

0%

**37 Honoring Vendor's Minimum Percentage Discount**

Vendor is asked in these Attribute Questions to provide a Minimum Percentage Discount offered to TIPS Members on all goods and services sold under the TIPS Contract. Points will be assigned for your response and scoring of your proposal will be affected. A "YES" answer will be awarded the maximum 10 points and a "NO" answer will be awarded 0 points.

Does Vendor agree to honor the Minimum Percentage Discount off of their TIPS "Catalog Pricing" that Vendor proposed for all TIPS Sales made for the duration of the TIPS Contract?

**38 Volume and Additional Discounts**

In addition to the Minimum Percentage Discount proposed herein, does Vendor ever expect and intend to offer additional, greater, or volume discounts to TIPS Members?

Point(s) may be assigned for your response in the category of "Pricing" during scoring and evaluation.

**39 "Catalog Pricing" and Pricing Requirements**

**This is a requirement of the TIPS Contract and is non-negotiable.**

In this solicitation and resulting contract, "Catalog Pricing" shall be defined as:

"The then available list of goods or services, in the most current listing regardless of date, that takes the form of a catalog, price list, price schedule, shelf-price or other viewable format that:

- A. is regularly maintained by the manufacturer or Vendor of an item; and
- B. is either published or otherwise available for review by TIPS or a customer during the purchase process;
- C. to which the Minimum Percentage Discount proposed by the proposing Vendor may be applied.

If awarded on this TIPS Contract, for the duration of the contract, Vendor agrees to provide, upon request, their then current "Catalog Pricing." Or, in limited circumstances where Vendor has proposed the Percentage Mark-Up method of pricing in this proposal, proof of Vendor's "cost" may be accepted by TIPS in place of catalog pricing.

**4 0 EXCEPTIONS & DEVIATIONS TO TIPS STANDARD TERMS AND CONDITIONS**

Vendor agrees that, if awarded, Vendor's final TIPS Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract. In the event of conflict between the terms of the finalized Vendor Agreement and one of the incorporated documents the terms and conditions which are in the best interest of governmental/qualifying non-profit TIPS Members shall control at TIPS sole discretion.

If Vendor responds, "No, Vendor does not agree" to this Attribute, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration. This is the only proper way to submit proposed deviations for TIPS consideration. TIPS reserves the right to accept, decline, or modify Vendor's requested negotiated terms. For this reason, answering "No, Vendor does not agree" may ultimately delay or prevent award.

Does Vendor agree with TIPS standard terms and conditions as presented in the TIPS solicitation document (RFP, RCSP, RFQ, or other) and the TIPS Vendor Agreement document?

No, Vendor does not agree

**4 1 TIPS Sales Reporting Requirements**

**This is a requirement of the TIPS Contract and is non-negotiable.**

By submitting this proposal, Vendor certifies that Vendor will properly report all TIPS sales. With the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either:

(1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at tipspo@tips-usa.com with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or;

(2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement.

No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion.

**4 2 TIPS Administration Fee Requirement and Acknowledgment**

**This is a requirement of the TIPS Contract and is non-negotiable.**

The collection of fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The TIPS Administration Fee is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of each TIPS Sale legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding RFP or RCSP document. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale.

By submitting a proposal, Vendor agrees that it has read, understands, and agrees to the published TIPS Administration Fee amount, calculation, and payment requirements. By submitting a proposal Vendor further confirms that all TIPS Pricing includes the TIPS Administration Fee and Vendor will not show adding the TIPS Administration Fee as a charge or line-item in any TIPS Sale.

**4** **TIPS Member Access to Vendor Proposal & Documentation**

**3** **This is a requirement of the TIPS Contract and is non-negotiable.**

Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's express consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation to TIPS Members or by TIPS Members. By submitting this proposal, Vendor certifies the foregoing.

**4** **Non-Collusive Bidding Certificate**

**4** **This is a requirement of the TIPS Contract and is non-negotiable.**

By submission of this proposal, the Vendor certifies that:

- 1) This proposal has been independently arrived at without collusion with any other entity, bidder, or with any competitor;
- 2) This 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 modify, submit, or not to submit a bid or proposal; and
- 4) The person signing this bid or proposal certifies that they are duly authorized to execute this proposal/contract on behalf of Vendor and they have fully informed themselves 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;

**4** **Antitrust Certification Statements (Tex. Government Code § 2155.005)**

**5** **This is a requirement of the TIPS Contract and is non-negotiable.**

By submission of this bid or proposal, Vendor certifies under penalty of perjury of the laws of the State of Texas that:

- (1) I am duly authorized to execute this proposal/contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Vendor) identified herein;
- (2) In connection with this proposal, neither I nor any representative of Vendor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- (3) In connection with this proposal, neither I nor any representative of the Vendor has violated any federal antitrust law;
- (4) Neither I nor any representative of Vendor 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.

**4** **Limitation on Out-of-State Litigation - Texas Business and Commerce Code § 272**

**6** **This is a requirement of the TIPS Contract and is non-negotiable.**

Texas Business and Commerce Code § 272 prohibits a construction contract, or an agreement collateral to or affecting the construction contract, from containing a provision making the contract or agreement, or any conflict arising under the contract or agreement, subject to another state's law, litigation in the courts of another state, or arbitration in another state. If included in Texas construction contracts, such provisions are voidable by a party obligated by the contract or agreement to perform the work.

By submission of this proposal, Vendor acknowledges this law and ***if Vendor enters into a construction contract with a Texas TIPS Member*** under this procurement, Vendor certifies compliance.

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**Required Confidentiality Claim Form**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS provides the required TIPS Confidentiality Claim Form in the "Attachments" section of this solicitation. Vendor must execute this form by either signing and waiving any confidentiality claim, or designating portions of Vendor's proposal confidential. If Vendor considers any portion of Vendor's proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form.

If TIPS receives a public information act or similar request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor documents deemed confidential by you in this manner, 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, including Attorney General determination and opinion.

Notwithstanding any other Vendor designation of Vendor's proposal as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's agreement that proper execution of the required TIPS Confidentiality Claim Form is the only way to assert any portion of Vendor's proposal as confidential.

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**Non-Discrimination Statement and Certification**

**This is a requirement of the TIPS Contract and is non-negotiable.**

In accordance with Federal civil rights law, all U.S. Departments, including but not limited to the USDA, USDE, FEMA, 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 federal funds (not all bases apply to all programs).

Vendor certifies that Vendor will comply with applicable Non-Discrimination and Equal Opportunity provisions set forth in TIPS Member Customers' policies and other regulations at the local, state, and federal levels of governments.

Yes, I certify

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**Limitation of Vendor Indemnification and Similar Clauses**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, is prohibited from indemnifying third-parties (pursuant to the Article 3, Section 52 of the Texas Constitution) except as otherwise specifically provided for by law or as ordered by a court of competent jurisdiction. Article 3, Section 52 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " and the Texas Attorney General has opined that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Thus, contract clauses which require TIPS to indemnify Vendor, pay liquidated damages, pay attorney's fees, waive Vendor's liability, or waive any applicable statute of limitations must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas."

Does Vendor agree?

Yes, I Agree

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**Alternative Dispute Resolution Limitations**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, does not agree to binding arbitration as a remedy to dispute and no such provision shall be permitted in this Agreement with TIPS. Vendor agrees that any claim arising out of or related to this Agreement, except those specifically and expressly waived or negotiated within this Agreement, may be subject to non-binding mediation at the request of either party to be conducted by a mutually agreed upon mediator as prerequisite to the filing of any lawsuit arising out of or related to this Agreement. Mediation shall be held in either Camp or Titus County, Texas. Agreements reached in mediation will be subject to the approval by the Region 8 ESC's Board of Directors, authorized signature of the Parties if approved by the Board of Directors, and, once approved by the Board of Directors and properly signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Does Vendor agree?

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**No Waiver of TIPS Immunity**

**This is a requirement of the TIPS Contract and is non-negotiable.**

Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

Does Vendor agree?

Yes, Vendor agrees

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**Payment Terms and Funding Out Clause**

**This is a requirement of the TIPS Contract and is non-negotiable.**

Vendor agrees that TIPS and 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.

Funding-Out Clause: Vendor agrees to abide by the applicable laws and regulations, including but not limited to Texas Local Government Code § 271.903, or any other statutory or regulatory limitation of the jurisdiction of any TIPS Member, which requires that 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.

Does Vendor agree?

Yes, Vendor agrees

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**Certification Regarding Prohibition of Certain Terrorist Organizations (Tex. Gov. Code 2270)**

Vendor certifies that Vendor is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.

Does Vendor certify?



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**Certification Regarding Prohibition of Boycotting Israel (Tex. Gov. Code 2271)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any agreement with a TIPS Member under this procurement has value of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Vendor certifies, where applicable, that neither the Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any, boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory but does not include an action made for ordinary business purposes.

When applicable, does Vendor certify?

Yes, Vendor certifies

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**Certification Regarding Prohibition of Contracts with Certain Foreign-Owned Companies (Tex. Gov. Code 2274)**

Certain public entities are prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant Vendor direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by a customer for product warranty and support purposes.

Vendor certifies that neither it nor its parent company nor any affiliate of Vendor or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country.

For purposes of this certification, "critical infrastructure" means "a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility." Vendor certifies that Vendor will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

When applicable, does Vendor certify?

Yes, Vendor certifies

**5 Certification Regarding Prohibition of Discrimination Against Firearm and Ammunition Industries (Tex. Gov. Code 2274)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has at least ten (10) full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities have a value of at least \$100,000 that is paid wholly or partly from public funds; (d) the Agreement is not excepted under Tex. Gov. Code 2274 and (e) the purchasing public entity has determined that Vendor is not a sole-source provider or the purchasing public entity has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association.

For purposes of this Agreement, “discriminate against a firearm entity or firearm trade association” shall mean, with respect to the entity or association, to: “(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.”

“Discrimination against a firearm entity or firearm trade association” does not include: “(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.”

When applicable, does Vendor certify?

Yes, Vendor certifies

**5 Certification Regarding Termination of Contract for Non-Compliance (Tex. Gov. Code 552.374)**

If Vendor is not a governmental body and (a) this Agreement or any Supplemental Agreement with a public entity has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities; or (b) this Agreement or any Supplemental Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities in their fiscal year, the following certification shall apply; otherwise, this certification is not required.

As required by Tex. Gov. Code 552.374, the following statement is included in the RFP and the Agreement (unless the Agreement is (1) related to the purchase or underwriting of a public security; (2) is or may be used as collateral on a loan; or (3) proceeds from which are used to pay debt service of a public security of loan): “The requirements of Subchapter J, Chapter 552, Government Code, may apply to this solicitation and Agreement and the Vendor agrees that this Agreement and any applicable Supplemental Agreement can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.”

Pursuant to Chapter 552 of the Texas Government Code, Vendor certifies that Vendor shall: (1) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member for the duration of the Agreement; (2) promptly provide to TIPS or the purchasing TIPS Member any contracting information related to the Agreement that is in the custody or possession of Vendor on request of TIPS or the purchasing TIPS Member; and (3) on completion of the Agreement, either (a) provide at no cost to TIPS or the purchasing TIPS Member all contracting information related to the Agreement that is in the custody or possession of Vendor, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member.

When applicable, does Vendor certify?

Yes, Vendor certifies

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**Certification Regarding Prohibition of Boycotting Certain Energy Companies (Tex. Gov. Code 2274)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities has a value of \$100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, do not boycott energy companies and will not boycott energy companies during the term of the Agreement or any applicable Supplemental Agreement.

For purposes of this certification the term "company" shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit.

The term "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a)." (See Tex. Gov. Code 809.001).

When applicable, does Vendor certify?

Yes, Vendor certifies

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**Felony Conviction Notice - Texas Education Code 44.034**

Texas Education Code, 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."

Subsection (c) states, "This section does not apply to a publicly held corporation."

Vendor certifies one of the following:

- A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable, or;
- B. My firm is not owned nor operated by anyone who has been convicted of a felony, or;
- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony.

If Vendor responds with Option (C), Vendor is required to provide information in the next attribute.

A. My firm is a publicly held corporation.

**60 Felony Conviction Notice - Texas Education Code 44.034 - Continued**

If Vendor selected Option (C) in the previous attribute, Vendor must provide the following information herein:

1. Name of Felon(s)
2. The Felon(s) title/role in Vendor's entity, and
3. Details of Felon(s) Conviction(s).

No response

**61 Conflict of Interest Questionnaire Requirement**

Vendor agrees that it has looked up, read, and understood the current version of Texas Local Government Code Chapter 176 which generally requires disclosures of conflicts of interests by Vendor hereunder if Vendor:

- (1) has an employment or other business relationship with a local government officer of our local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of our local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of our local governmental entity.
- (4) Any other financial, commercial, or familial relationship with our local government that may warrant reporting under this statute.

Does Vendor certify that it has NO reportable conflict of interest?

Yes, Vendor certifies - VENDOR HAS NO CONFLICT

**62 Conflict of Interest Questionnaire Requirement - Form CIQ - Continued**

If you responded "No, Vendor does not certify - VENDOR HAS CONFLICT" to the Conflict of Interest Questionnaire question above, you are required by law to fully execute and upload the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ." If you accurately claimed no conflict above, you may disregard the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ."

Have you uploaded this form if applicable?

Not Applicable

**63 Upload of Current W-9 Required**

Vendors are required by TIPS to upload a current, accurate W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

**64 Regulatory Good Standing Certification**

Does Vendor certify that its entity is in good standing will all government entities and agencies, whether local, state, or federal, that regulate any aspect of Vendor's field of work or business operations?

If Vendor selects "No", Vendor must provide explanation on the following attribute question.

Yes, Vendor certifies

**6**  
**5** **Regulatory Good Standing Certification - Explanation - Continued**

If Vendor responded to the prior attribute that "No", Vendor is not in good standing, Vendor must provide an explanation of that lack of good standing here for TIPS consideration.

*No response*

**6**  
**6** **Instructions Only - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**  
**Instructions for Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

1. By answering yes to the next Attribute question below, 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.

**6** **Suspension or Debarment Certification**

**7**

Read the instructions in the attribute above and then answer the following accurately.

Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Does Vendor certify?

Yes, Vendor certifies

**6** **Vendor Certification of Criminal History - Texas Education Code Chapter 22**

**8**

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 pursuant to this law.

**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: (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.

**Vendor certifies:**

**NONE (Section A):** None of the employees of Vendor 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 Vendor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided under this procurement.

**OR**

**SOME (Section B):** Some or all of the employees of Vendor and any subcontractor are covered employees. If this box is checked, I further certify that: (1) Vendor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history; (2) If Vendor receives information that a covered employee subsequently has a reported criminal history, Vendor will immediately remove the covered employee from contract duties and notify the purchasing entity in writing within 3 business days; (3) Upon request, Vendor will provide the purchasing entity with the name and any other requested information of covered employees so that the purchasing entity may obtain criminal history record information on the covered employees; (4) If the purchasing entity objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Vendor agrees to discontinue using that covered employee to provide services at the purchasing entity.

Which option does Vendor certify?

Yes, I certify - NONE (Section A)

**6** **Certification Regarding "Choice of Law" Terms with TIPS Members**

9 Vendor agrees that if any "Choice of Law" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the sales agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7** **Certification Regarding "Venue" Terms with TIPS Members**

0 Vendor agrees that if any "Venue" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution is shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7** **Certification Regarding "Automatic Renewal" Terms with TIPS Members**

1 Vendor agrees that no TIPS Sale may incorporate an "Automatic Renewal" clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing a Supplemental 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. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

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2 Certification Regarding "Indemnity" Terms with TIPS Members**

Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

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3 Certification Regarding "Arbitration" Terms with TIPS Members**

Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may **not** require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

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4 2 CFR PART 200 AND FEDERAL CONTRACT PROVISIONS EXPLANATION**

TIPS and TIPS Members will sometimes seek to make purchases with federal funds. In accordance with 2 C.F.R. Part 200 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (sometimes referred to as "EDGAR"), Vendor's response to the following questions labeled "2 CFR Part 200 or Federal Provision" will indicate Vendor's willingness and ability to comply with certain requirements which may be applicable to TIPS purchases paid for with federal funds, if accepted by Vendor.

Your responses to the following questions labeled "2 CFR Part 200 or Federal Provision" will dictate whether TIPS can list this awarded contract as viable to be considered for a federal fund purchase. **Failure to certify all requirements labeled "2 CFR Part 200 or Federal Provision" will mean that your contract is listed as not viable for the receipt of federal funds. However, it will not prevent award.**

If you do enter into a TIPS Sale when you are accepting federal funds, the contract between you and the TIPS Member will likely require these same certifications.



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**2 CFR Part 200 or Federal Provision - Vendor Willingness to Accept Federal Funds**

This certification is not required by federal law. However, TIPS Members are public entities and qualifying non-profits which often receive federal funding and grants (ESSER, CARES Act, EDGAR, etc.) **Accepting such funds often requires additional required certifications and responsibilities for Vendor.** The following attribute questions include these required certifications. Your response to this questions, the following certifications, and other factors will determine whether your contract award will be deemed as eligible for federal fund expenditures by TIPS Members.

If awarded, is Vendor willing to accept payment for goods and services offered under this contract paid for by a TIPS Member with federal funds?

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**2 CFR Part 200 or Federal Provision - Contracts**

Contracts for more than the simplified acquisition threshold currently set at \$250,000 (2 CFR § 200.320), 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 reserve 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?

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**2 CFR Part 200 or Federal Provision - 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)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve 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 reserve 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?

**7** **2 CFR Part 200 or Federal Provision - Clean Air Act**

**8** 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).

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 require 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.

Does vendor agree?

Yes, Vendor agrees

**7** **2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment**

**9** 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.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require 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 that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Does Vendor agree?

Yes, Vendor agrees

**8 0 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued**

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 the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). 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.

Does Vendor certify that it has NOT lobbied as described herein?

Yes, Vendor certifies - NO Reportable Lobbying

**8 1 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued**

If you answered "No, Vendor does not certify - Lobbying to Report" to the above attribute question, you must download, read, execute, and upload the attachment entitled "Disclosure of Lobbying Activities - Standard Form - LLL", as instructed, to report the lobbying activities you performed or paid others to perform.

**8 2 2 CFR Part 200 or Federal Provision - Federal Rule**

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)

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 \$250,000, 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).

Does vendor certify compliance?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Procurement of Recovered Materials**

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: (1) 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 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; (2) 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.

Does vendor certify that it is in compliance with these provisions?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Rights to Inventions**

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.

Does vendor certify?

Yes, Vendor certifies

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## 2 CFR Part 200 or Federal Provision - Domestic Preferences for Procurements and Compliance with Buy America Provisions

As appropriate and to the extent consistent with law, TIPS Member Customers, to the greatest extent practicable under a Federal award, may provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Vendor agrees that the requirements of this section will be included in all subawards including all contracts and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. For purposes of 2 CFR Part 200.322, "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition. For purposes of 2 CFR Part 200.322,

"Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

"Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

Does Vendor Certify?

Yes, Vendor certifies

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## 2 CFR Part 200 or Federal Provision - Ban on Foreign Telecommunications

ESC 8 and TIPS Members are prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that use "covered telecommunications" equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications" equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and physical security surveillance of critical infrastructure and other national security purposes, and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 CFR § 200.216.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor certify?

Yes, Vendor certifies

**8** **2 CFR Part 200 or Federal Provision - Contract Cost & Price**

For contracts more than the simplified acquisition threshold currently set at \$250,000, a TIPS Member may, in very rare circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). Under those circumstances, Vendor agrees to provide information and negotiate with the TIPS Member regarding profit as a separate element of the price. However, Vendor certifies that the total price charged by the Vendor shall not exceed the Vendor's TIPS pricing and pricing terms proposed.

Does Vendor certify?

Yes, Vendor certifies

**8** **2 CFR Part 200 or Federal Provision - Equal Employment Opportunity**

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members on any federally assisted construction contract, the equal

opportunity clause is incorporated by reference here.

Does Vendor Certify?

Yes, Vendor certifies

**8** **2 CFR Part 200 or Federal Provision - Davis Bacon Act Compliance**

Texas Statute requires compliance with Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146- 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to state and federal requirements, Vendor certifies that it will be in compliance with all applicable Davis-Bacon Act provisions if/when applicable.

Does Vendor certify?

Yes, Vendor certifies

**9 2 CFR Part 200 or Federal Provision - Contract Work Hours and Safety Standards**

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award for all contracts resulting from this procurement process, Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does Vendor certify?

Yes, Vendor certifies

**9 2 CFR Part 200 or Federal Provision - FEMA Fund Certification & Certification of Access to Records**

**If and when** Vendor accepts a TIPS purchase paid for in full or part with FEMA funds, Vendor certifies that:

(1) Vendor agrees to provide the TIPS Member, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Contractor which are directly pertinent to this contract, or any contract resulting from this procurement, for the purposes of making audits, examinations, excerpts, and transcriptions. This right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents. Vendor agrees to provide the FEMA Administrator or an authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this contract or the contract with the TIPS Member is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(2) The Vendor shall not use the Department of Homeland Security's seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(3) The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(4) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

(5) The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract.

Does Vendor certify?

Yes, Vendor certifies

**9 2 CFR Part 200 or Federal Provision - Certification of Compliance with the Energy Policy and Conservation Act**

When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any state mandatory standards and policies relating to energy efficiency which are contained in applicable state energy conservation plans issued in compliance with the Act.

Does Vendor certify?

Yes, Vendor certifies

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**2 CFR Part 200 or Federal Provision - Certification of Compliance with Never Contract with the Enemy**

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$50,000.00, within the period of performance, and which are performed outside of the United States, including U.S. territories, are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. Per 2 CFR part 183, in the situation specified, ESC 8 and TIPS Members shall terminate any contract or agreement resulting from this procurement which violates the Never Contract with the Enemy regulation in 2 CFR part 183, including if Vendor is actively opposing the United States or coalition forces involved in a contingency operation in which members of the the Armed Forces are actively engaged in hostilities. Vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIS) for any contract terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply.

Does Vendor certify?

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**2 CFR Part 200 or Federal Provision - Certification of Compliance with EPA Regulations**

For contracts resulting from this procurement, in excess of \$100,000.00 and paid for with federal funds, Vendor certifies that Vendor will comply with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does Vendor certify?

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**2 CFR Part 200 or Federal Provision - Record Retention Requirements**

For contracts resulting from this procurement, paid for by ESC 8 or TIPS Members with federal funds, Vendor certifies that Vendor will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after final expenditure or financial reports, as applicable, and all other pending matters are closed.

Does Vendor certify?

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**2 CFR Part 200 or Federal Provision - Subcontracting and Affirmative Steps for 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?

If you respond "Yes", you must respond to the following attribute question accurately. If you respond "No", you may skip the following attribute question.



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**2 CFR Part 200 or Federal Provision - If "Yes" Response to Above Attribute - Continued - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

**Only respond to this question if you responded "Yes" to the attribute question directly above. Skip this question if you responded "No" to the attribute question directly above.**

Does Vendor certify that it will follow the following affirmative steps? 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.

Does Vendor certify?

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**ACKNOWLEDGMENT & BINDING CORPORATE AUTHORITY**

By submitting this proposal, the individual(s) submitting on behalf of the Vendor certify that they are authorized by Vendor to complete and submit this proposal on behalf of Vendor and that this proposal was duly submitted on behalf of Vendor by authority of its governing body, if any, and within the scope of its corporate powers.

Vendor further certifies that it has read, examined, and understands all portions of this solicitation including but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement(s). Vendor certifies that, if necessary, Vendor has consulted with counsel in understanding all portions of this solicitation.

TIPS 240502 Comprehensive Fleet Leasing and	<b>AssetWorks Inc.</b>
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**TIPS REFERENCE FORM**

All requested information must be typed and uploaded in Excel format. Do not handwrite or upload in any format other than Excel. Emails provided must be current and active. Do not include TIPS/Region 8 employees as a reference. The entities that you provide must be paying customers, not affiliates/partners/manufacturers/resellers, etc.

You must provide below at least three (3) references from three different entity customers, preferably government or non-profit entities, who have purchased goods or services from your vendor entity within the last three years.

Customer Entity Name	Customer Contact Name	Valid Contact Email	Valid Contact Phone
Example: ABC University	Director John Doe	<a href="mailto:jdoe@abcuniverisity.edu">jdoe@abcuniverisity.edu</a>	800-111- 2222
Dallas County, TX	Doug Hildebrand	<a href="mailto:douglas.hildebrand@dallascounty.org">douglas.hildebrand@dallascounty.org</a>	214-589-7068
City of Grand Prairie, TX	Jayson Ramirez	<a href="mailto:jrramirez@gptx.org">jrramirez@gptx.org</a>	972-237-2002
City of Abilene, TX	Tim Cass	<a href="mailto:tim.cass@abilenetx.gov">tim.cass@abilenetx.gov</a>	325-676-6070
City of El Paso, TX	Richard Boehler	<a href="mailto:boehlerre@elpasotexas.gov">boehlerre@elpasotexas.gov</a>	915-212-8011

TIPS CONTRACT 240502

REQUIRED CONFIDENTIALITY CLAIM FORM

(VENDOR MUST COMPLETE THE FOLLOWING VENDOR INFORMATION)

Vendor Entity Name: AssetWorks Inc.  
Vendor Authorized Signatory Name: Greg Richards  
Vendor Authorized Signatory Title: General Manager  
Vendor Authorized Signatory Email: POC: allan.richardson@assetworks.com  
Vendor Address: 1001 Old Cassatt Rd Suite 204  
City: Berwyn State: PA Zip Code: 19312

Vendor agrees that it is voluntarily providing its data (including but not limited to: Vendor information, Vendor documentation, Vendor's proposal, Vendor pricing submitted or provided to TIPS, TIPS contract documents, TIPS correspondence, Vendor logos and images, Vendor's contact information, Vendor's brochures and commercial information, Vendor's financial information, Vendor's certifications, and any other Vendor information or documentation submitted to TIPS by Vendor and its agents) (Hereinafter, "Vendor Data") to TIPS. Vendor understands and agrees that TIPS is a government entity subject to public information laws including but not limited to Texas Government Code (TGC) Chapter 552. Vendor agrees that regardless of confidentiality designations herein, Vendor's submission of a proposal constitutes Vendor's consent to the disclosure and release of Vendor's Data and comprehensive proposal, including any information deemed confidential or proprietary herein, to and by TIPS Members.

Notwithstanding the foregoing permissible release to TIPS Members, if Vendor considers any portion of Vendor's proposal to be otherwise confidential and not subject to public disclosure pursuant to public information laws, including but not limited to TGC Chapter 552, Vendor must properly execute **Option 1 only** below, attach to this PDF all documents and information that Vendor deems confidential, and upload the consolidated documentation. Regardless of the Option selected below, this form must be completed and uploaded to the "Response Attachments" section of the eBid System entitled "Required Confidentiality Claim Form." Execution and submission of this form is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a request, a Public Information Request, or subpoena. If TIPS receives a request, any responsive documentation not deemed confidential by you through proper execution of Option 1 of this form will be automatically released. For information deemed confidential by you through proper execution of Option 1 of this form, TIPS will follow procedures of controlling statute(s) regarding withholding that documentation and shall not be liable for any release of information required by law, including Attorney General opinion or court order.

(VENDOR MUST COMPLETE ONE OF THE TWO OPTIONS AND UPLOAD IN THE EBID SYSTEM)

**OPTION 1 – DESIGNATING CONFIDENTIAL MATERIALS – YES, VENDOR HAS ATTACHED CONFIDENTIAL MATERIALS**

(Confirm each bullet point and sign below)

- Vendor claims some Vendor Data confidential to the extent permitted by TGC Chapter 552 and other applicable law.
- Vendor attached to this PDF all potentially confidential Vendor Data and listed the number of attached pages below.
- Vendor's authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

Number of pages attached deemed confidential: \_\_\_\_\_

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

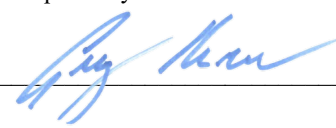
**OPTION 2 – WAIVER OF CONFIDENTIALITY – NO, VENDOR HAS NOT ATTACHED CONFIDENTIAL MATERIALS**

(Confirm each bullet point and sign below)

By signing for Option 2 below, Vendor expressly waives any confidentiality claim for all Vendor Data submitted in relation to this proposal and resulting contract. Vendor confirms that TIPS may freely release Vendor Data submitted in relation to this proposal or resulting contract to any requestor. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of Vendor Data by TIPS or TIPS Members.

- Vendor's authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

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



## **VENDOR SUPPLEMENTAL INFORMATION**

TIPS permits Vendors to submit supplemental documentation and information (“Vendor Supplemental Information”) with their proposals to display to TIPS Member Customers their qualifications, offerings, and special terms. The following documents are for marketing and informational purposes only. They are not terms of Vendor’s TIPS Contract. If the Vendor Supplemental Information herein contains any warranties, terms, or conditions, the TIPS Member Customer may review and determine whether or not those are applicable and acceptable for any TIPS purchase before proceeding. If the Vendor Supplemental Information contains any licenses or certificates, TIPS encourages the TIPS Member Customer to ensure current accuracy at the time of a TIPS purchase.

# AssetWORKS

This Master Subscription Agreement (“**Agreement**”) is deemed effective upon the earlier of \_\_\_\_\_, 2024, or the below date of countersignature (“**Effective Date**”) between the AssetWorks Contracting Party (“**AssetWorks**”) and \_\_\_\_\_ and/or its authorized intermediary (“**Customer**”) identified on the order form and/or statement of work (collectively “**Order**”).

## 0 SCOPE & TERM.

- 0.1 This Agreement shall continue for five (5) years from the Effective Date and annually thereafter upon mutual agreement (“**Term**”) and shall apply to all Orders executed between AssetWorks and Customer (collectively “**Parties**”) during the Term. Capitalized terms are defined at the end of this Agreement.
- 0.2 The following order of precedence shall control in case and to the extent of conflict:
- Agreement
  - Exhibit A – Order
  - Exhibit B – \_\_\_\_\_ [PLACE HOLDER – REMOVE IF N/A]
- 0.3 Customer agrees to pay the fees and AssetWorks agrees to supply the items as detailed on the Order subject to the terms and conditions of this Agreement (as applicable) to the exclusion of any additional or conflicting terms of acceptance.
- 0.4 No terms or conditions endorsed upon, delivered with, or contained in the Customer's acknowledgement or acceptance of this Agreement or any related Order shall form part of this Agreement. Customer hereby waives and agrees to waive any right to rely on such terms and conditions.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by authorized representatives as of the Effective Date:

### ASSETWORKS INC.

### CUSTOMER

By	_____	By	_____
Name	_____	Name	_____
Title	_____	Title	_____
Date	_____	Date	_____
Address	1001 Old Cassatt Road, Ste. 204 Berwyn, PA 19312	Address	_____
CC 1:	_____	CC 1:	_____
CC 2:	<a href="mailto:legal@assetworks.com">legal@assetworks.com</a>	CC 2:	_____

## 1 SAAS SUBSCRIPTION

- 1.1 Software-as-a-Service Subscription. If the Order includes SaaS, recurring service, or similar identifier then subject to the terms and conditions of this Agreement including the payment of fees, AssetWorks will provide Customer with subscription-based access to the software/service as detailed on the Order and Documentation during the prepaid Term through an access-restricted website or designated IP address hosted via a third-party data center ("**SaaS**" or "**Service**") for Customer's internal business purposes provided Customer complies with the applicable limitations on use set forth in Section 3 (*Ownership; Restrictions; Utilization Limitations*).
- 1.1.1 Support. SaaS subscriptions include standard support pursuant to Section 4 (*Maintenance & Support*).
- 1.1.2 Hosting. SaaS subscriptions include standard hosting services pursuant to Section 5 (*Hosting Services*).
- 1.1.3 Delivery N/A. Customer agrees that orders for SaaS are services agreements due upon Effective Date for which delivery and acceptance is inapplicable and that no copies of the Software nor license thereto will be delivered nor granted to Customer.

## 2 SOFTWARE LICENSE

- 2.1 Restated Software License. If the Order includes license to Software, then subject to the terms and conditions of this Agreement including the payment of fees, AssetWorks grants to Customer a non-exclusive, non-transferable, non-sublicensable, perpetual license to use the Software as detailed on the Order and Documentation up to the number of units or in the amount, quantity, and/or tier or as otherwise specified on the Order (e.g. Active Equipment Unit, Concurrent License, Enterprise License) for Customer's internal business purposes provided Customer complies with the applicable restrictions set forth in Section 3 (*Ownership; Restrictions; Utilization Limitations*). Customer's license is for (1) copy or image of the Software within one (1) business entity for production purposes on approved database and application servers ("**Customer Environment**"). Customer shall not copy nor use the Software for any other purpose except: (a) for archival purposes; (b) in connection with a disaster recovery program; or (c) for testing operation of the Software outside of a live production environment.
- 2.1.1 Support N/A. For additional fee, Customer may obtain standard support pursuant to Section 4 (*Maintenance & Support*).
- 2.1.2 Hosting N/A. For additional fee, Customer may obtain hosting services pursuant to Section 5 (*Hosting Services*).

## 3 OWNERSHIP; RESTRICTIONS; UTILIZATION LIMITATIONS;

- 3.1 Restrictions; Limitations. To the extent permitted by law and unless Parties agree otherwise, Section 1 (*SaaS Subscription*) and Section 2 (*Software License*) are conditioned on the following limitations and restrictions. Customer shall not (indirectly or directly) attempt, permit, nor encourage any third party to: (a) copy, modify, enhance, translate, change data structures, create derivative works from, distribute, publicly display or perform, sublicense, transfer, sell, rent, lease, or assign the Software or Documentation or otherwise encumber the Service; (b) reverse engineer, decompile, disassemble, or otherwise attempt to derive or modify the Software or Source Code, underlying data structure, ideas, know-how, algorithms, or other trade secrets relevant to the Service; (c) engage in any activities that interfere or disrupt any computer, software, network, or other device used to provide the Service or otherwise impacting the Service or data contained therein; (d) gain unauthorized access; (e) remove any proprietary notices, labels, or markings from the Software or Documentation; (f) use the Software or Service by more than one (1) business entity, in processing work for third parties, or for any purpose other than its internal business purposes, which does not include use by any parent, subsidiary, or affiliate of Customer nor any third party other than Customer's Users; (g) use the Service in a manner that violates laws or rights of others such as by inputting Excluded Data into the Service; (h) use the Software or Service as part of a fail-safe design for dangerous or emergency applications or as part of control measures required for hazardous materials, life support systems, munitions, or weapons; (i) perform benchmark, availability/uptime, performance, or pen tests without prior consent; (j) use the Software or Service to compete with AssetWorks; (k) engage in web- or data scraping on or related to the Service, including without limitation collection of information through unapproved third-party vendor, bot, web crawler, or any software that simulates human activity; and (l) use the Service and/or Software in excess of the licensed quantity or tier (e.g. Active Equipment Unit, Concurrent License, Enterprise License, etc.).
- 3.2 Ownership. Customer will not obtain any ownership rights, title, or interest to the Software or Services nor to any improvements, enhancements, derivatives, or modifications thereto. Any software, systems, methods, inventions, technology, and any intellectual property rights ("**IPR**") developed or otherwise arising during this Agreement shall remain exclusively owned by AssetWorks and/or its licensors. Notwithstanding anything to the contrary, AssetWorks shall have the right to collect and analyze data and other information relating to the provision, use, and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data), and AssetWorks will be free (during and after the term hereof) to: (a) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other AssetWorks offerings, and (b) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

## 4 MAINTENANCE & SUPPORT

- 4.1 Annual Support Subscription (i.e. Maintenance-as-a-Product). Subject to the terms and conditions of this Agreement, AssetWorks will provide the latest updates, modifications, and enhancements (including correction of errors) which relate to the operation and performance of the Software or SaaS (hereinafter referred to collectively as the “**Service(s)**”) as they are developed and made generally available in accordance with the maintenance and support schedule published by AssetWorks (collectively “**Maintenance**” or “**Support**”). Subscriptions to Maintenance include:
- 4.1.1 Technical Assistance. AssetWorks will make available technically qualified personnel to respond to all reasonable support requests made by Customer during normal business hours published by AssetWorks Customer Care (excluding legal holidays).
- 4.1.2 Technical Literature. AssetWorks will make available all technical literature (i.e. Documentation) in electronic format that is relevant to the operation of the Service within the scope of Customer’s operations.
- 4.1.3 Correction of Deviations. AssetWorks will take reasonably necessary steps to correct errors and/or malfunctions (“**Deviation(s)**”) without undue delay that, in the mutual and reasonable opinion of the Parties, constitute a serious impediment to the normal intended use of the Service as set forth in the Documentation. Corrections to Deviations which do not rise to this level will be distributed to Customer in accordance with AssetWorks’ normal maintenance schedule.
- 4.1.4 Software Revisions & New Versions. The Software may be revised by AssetWorks to correct Deviations and/or for upgrades, enhancements, improvements, or modifications designed to improve performance and/or increase capabilities of the Software. Revisions may be mandatory or optional and are included at no cost with annual subscription to Maintenance. New products or versions may also be added to the Software from time to time by AssetWorks. Compared to revisions, new products substantially improve the performance, functionality, and capability of the Software. AssetWorks has sole discretion to determine which revisions are mandatory and which updates shall be issued as new products for additional fee.
- 4.2 Maintenance Exclusions. Unless the Order provides otherwise, subscriptions to Maintenance do not include: (a) custom programming, consulting, configuration services, migration or upgrade support; (b) on-site support or installation, travel, hotel, and per-diem expenses related thereto; (c) support of any software other than the Software accessed as part of the Service; (d) training; (e) support for third-party integrations; (f) support of Customer’s computer equipment, servers, printers, or problems which arise therefrom; (g) remediation of issues resulting from: Customer’s misuse of the Software or data files in contravention of the Documentation, failure to implement a mandatory revision or update the Software to a current or supported version when recommended, failure to obtain or decision to otherwise previously forgo Maintenance; (h) diagnostic assistance for issues unrelated to a Deviation; and (i) any Professional Services which AssetWorks ordinarily performs pursuant to SOW.
- 4.3 Additional Software Maintenance Fee. Customer agrees that Maintenance fees shall automatically increase in an amount equal to twenty-five percent (25%) of the non-discounted, then-current Software fee for additional licenses supplied during the Term. AssetWorks shall invoice and Customer agrees to pay additional maintenance for Software licenses upon the Order Effective Date. Customer agrees to pay additional maintenance for the cost of any custom-developed software, custom report, or custom notification upon delivery pursuant to the Order. For SaaS, additional custom maintenance will be added to the annual SaaS fee or added into the per-unit SaaS fee.
- 4.4 Maintenance Re-enrollment Fee. In the event Customer subscribes to Maintenance anytime after the Effective Date or otherwise fails to pay for Maintenance in advance of the annual term, then in addition to the annual subscription fee due in advance for the next year, Customer also agrees to pay a late-subscription fee (which Customer hereby agrees is fair and reasonable) along with back-maintenance in a total amount equal to One Hundred and Ten Percent (110%) of the Maintenance fees otherwise payable.
- 4.5 Mandatory Revisions; Termination. AssetWorks reserves the right to terminate Maintenance if Customer does not implement a mandatory revision within sixty (60) days’ notice or such longer period as AssetWorks may provide.
- 4.6 Other Fees & Expenses. If on-site Maintenance is required, Customer agrees to pay reasonable travel, hotel, and per-diem expenses which shall be invoiced and paid as incurred.

## 5 HOSTING SERVICES.

- 5.1 Scope of Services. AssetWorks provides hosting services via a third-party data center (“**Hosted Environment**”) inclusive with subscriptions to SaaS and to support installation and upgrade management of Software licensed by Customer (“**Hosting Services**”). If the Order includes Hosting Services or SaaS, then the Service for purpose of the Agreement includes the following:
- 5.1.1 Application. Application refers to AssetWorks’ proprietary software and third-party software if specified on the Order.
- 5.1.2 Support Software. Support Software includes the operating system, utilities, database software, and all necessary licenses required to operate the Application as detailed in the Documentation.
- 5.1.3 Hosted Environment Hardware. Server infrastructure using redundant web and database servers is deployed within the Hosted Environment. If required, Customer will provide the telecommunications equipment, communications line, and services for connecting Customer’s site to the Hosted Environment.
- 5.1.4 Database Instances. AssetWorks will maintain a single production database instance to provide daily, real-time transaction data to Users and will populate a test database (if applicable) with Customer’s production data up to four (4) times in any twelve (12) month period at no additional cost. If applicable, updates or patches are first introduced to the test environment and Customer is responsible to test and report errors within ten (10) days otherwise the new release or patch will then be discharged in the production environment. AssetWorks may use the test environment to troubleshoot or configure and test new functionalities or reports. A Reporting Database may be provided for an additional fee on a 24-hour refresh.
- 5.1.5 Custom Reports. For an additional fee, AssetWorks will certify a Customer-built report for scheduling execution from within the Application directly against the production database, certifying that the report performs within appropriate performance guidelines and does not cause unacceptable response time issues. Once certified, AssetWorks will install the report into Customer’s production environment to make it available for execution submission from within the Application.
- 5.1.6 Backups. Hosted Environment database and incremental file Service backups are performed daily with local retention at fifteen (15) to thirty (30) days, local workloads enabled with cloud tiering to Microsoft Azure Blob storage for archive data from thirty-one (31) to ninety (90) days; target recovery time objective (RTO) is forty-eight (48) hours or maximum of four (4) business days; Recovery Point Objective (RPO) under one (1) minute.
- 5.1.7 Hours of Service Operation. Application will be accessible and available to Customer and capable of normal operating functions twenty-four (24) hours-per-day, seven (7) days-per-week, except for periods of scheduled maintenance and AssetWorks’ approved outages with prior customer notification. AssetWorks will not be held responsible for inaccessibility arising from communications problems occurring beyond AssetWorks’ external network interface nor will those hours of inaccessibility count as unavailable.
- 5.1.8 Hosted Environment Maintenance. AssetWorks will complete routine maintenance, including application upgrades, on the Hosted Environment according to the published schedule. Upgrade/patch notifications are normally sent two (2) business days in advance and generally occur during off-hours. All routine, additional, and emergency maintenance will be considered a period of scheduled maintenance. AssetWorks will endeavor to provide at least thirty (30) days’ notice to any changes in the schedule. If additional non-emergency maintenance outside of the scheduled maintenance window is required, AssetWorks will notify Customer in writing and Parties will mutually agree on the downtime.
- 5.1.9 Data Classification. The Hosted Environment maintains SSAE-16 SOC 2 certification/ISO27001 compliance as a facility housing CUI (Controlled Unclassified Information) data based on the DOJ assessment using NIST 800-53 guidelines for FISMA (Federal Information Standards Management Agency) standards. (SC Information Service = [(confidentiality, MODERATE), (integrity, LOW), (availability, LOW)]).
- 5.2 Customer Responsibilities. The Service specifically excludes the following items which Customer agrees to be responsible for:
- 5.2.1 Maintenance Exclusions. All items listed within section 4.2 (*Maintenance Exclusions*) including (but is not limited to) remediation of issues which do not constitute a Deviation. AssetWorks shall have no obligation but may attempt to correct such situations at Customer’s expense.
- 5.2.2 Proper Use. Ensuring the Service is used in accordance with this Agreement and in a manner that does not violate nor threaten to violate applicable laws or rights of others (such as by inputting Excluded Data into the Service) and promptly notifying AssetWorks upon discovery of misuse or suspected misuse by Customer, its Users, or any third party.
- 5.2.3 Unauthorized Access. Customer shall take reasonable steps to prevent unauthorized access to the Service such as by protecting passwords and securely managing log-in credential. Customer shall notify AssetWorks immediately of any suspected unauthorized use of the Service or breach of its security and shall use best efforts to stop said breach.
- 5.2.4 Key Personnel. Assigning primary and alternate Customer-designated key personnel to coordinate all communications and activities related to the Services on a regular basis.
- 5.2.5 Customer Resources. Customer will: (i) provide, maintain, and make available to AssetWorks, at Customer’s expense and in a timely manner, the resources, personnel, and documentation described in the Order and reasonably requested by AssetWorks; (ii) designate qualified representatives with project management responsibilities and/or decision-making authority to regularly consult with AssetWorks; (iii) assign primary and alternate Customer key personnel to coordinate all communications; and (iv) meet all Order assumptions (e.g. site readiness) and be responsible for any delays or additional fees should any Order assumptions not be met.



- 5.2.6 Customer Credentials & Application-level Security. Providing up-to-date User identification data, determining the appropriate security profile for each User, keeping all User identifications and passwords secure (“**Customer Credentials**”), and promptly notifying AssetWorks upon suspicion that Customer Credentials were compromised. Customer is solely responsible for application-level security and for secure management of Customer Credentials.
- 5.2.7 Customer’s Site. Installation, operation, and maintenance of all workstation software, existing data communications and configurations, LAN, hardware, or other application software required at Customer’s site. Customer will provide access to its site and obtain any license or approvals necessary for any on-premise performance.
- 5.2.8 Customer’s Environment. Ensuring Software deployed to the Customer Environment (if applicable) complies with the Documentation and does not exceed the licensed quantity, tier, or other Order restriction.
- 5.2.9 Testing updates, fixes, and upgrades. Testing updates or patches and reporting any errors within ten (10) days of their introduction to the test environment or otherwise during the mutually agreed testing period.
- 5.2.10 Diligent Troubleshooting. Customer must perform analysis of suspected problems to determine their specific nature and possible causes before calling AssetWorks for assistance. Notwithstanding this diligence requirement, Customer is responsible for informing AssetWorks of any problems encountered in a timely manner.

5.3 Service Level Objectives.

- 5.3.1 Availability. AssetWorks will use commercially reasonable efforts to provide Services with an average of 99% Availability for each quarter during the Term. For purposes of the Agreement, “**Availability**” during any quarter refers to Customer’s Users’ ability (i.e. documented inability) to log into the production environment during such quarter calculated as follows:

$$X = (Y - Z) / Y * 100$$

“**X**” is the Availability of the production environment during the quarter;

“**Y**” is the total number of hours in such quarter minus the number of hours during such quarter that the Customer is unable to log in because of: **(a)** regularly scheduled maintenance windows and other times for which Customer received reasonable notice in advance thereof; **(b)** Force Majeure, third-party integrations, and other circumstances outside AssetWorks’ reasonable control ; **(c)** non-performance of hardware, software, Customer’s internet service provider (ISP) connections, and/or non-performance of equipment that is neither provided nor certified by AssetWorks except as such non-performance is directly caused by AssetWorks; and

“**Z**” is the number of hours in such quarter during which Customer is unable to log into the production environment (exclusive of items set forth in the definition of “**Y**” above and de minimis outages); provided that AssetWorks was notified or reasonably should be aware of Customer’s inability to log into the production environment.

- 5.3.2 Service Credit. In the unlikely event Availability is less than ninety-nine percent (99%) during any two (2) consecutive quarters, Customer will receive a service credit (i.e. fee adjustment) of five percent (5%) of the applicable Service fees paid, subject to Customer delivering written notice (detailing the alleged unavailability, time/duration, location/users impacted (if applicable), and description of resolution attempts) within fifteen (15) days of the relevant quarter’s end in writing to AssetWorks’ office address and subject to Customer’s compliance with the terms of this Agreement. Upon receipt of such notice, AssetWorks shall have thirty (30) days to investigate the contention and, if it is determined that AssetWorks did in fact fail to meet the applicable Availability level, Customer will receive the appropriate service credit to its account during the next invoice cycle. THE SERVICE CREDIT SET FORTH ABOVE SHALL BE CUSTOMER’S SOLE REMEDY AND ASSETWORKS’ ENTIRE LIABILITY IN THE EVENT OF A BREACH OF THESE SERVICE LEVEL OBJECTIVES.

- 5.4 Performance Reports. Unless the Order or applicable law requires otherwise, AssetWorks will provide standard performance reports and availability metrics to Customers via biannual conference calls (i.e. Teams). Customer acknowledges and agrees that: (i) all such performance reports constitute sensitive trade secret and confidential information of AssetWorks not to be shared without approval; and (ii) any greater frequency, customized reporting, and/or actual delivery of performance documentation will require additional engagement and fee.

## 6 HARDWARE

- 6.1 Hardware Prices & Specifications. Hardware prices and specifications are subject to change without notice. AssetWorks is not responsible for typographical and/or photographic errors.
- 6.2 Hardware Installation & Configuration. Hardware fees are exclusive of shipping, installation, and/or configuration services unless Order provides otherwise. Customer agrees that installation guides, site readiness requirements, and/or other hardware-specific terms on the Order or otherwise published by the applicable hardware provider are deemed an integral part of this Agreement.
- 6.3 Hardware Warranties. AssetWorks warranty responsibility for Hardware is limited to replacement parts and telephone and/or helpdesk support during the warranty period in accordance with the then-current applicable warranty statements.
- 6.4 AssetWorks GPS
- 6.4.1 Technical Assistance. Telephone and/or Help desk support is available for AssetWorks GPS hardware issues 8:00AM-5:00pm MST Monday through Friday, by emailing fss.support@assetworks.com or calling 403-777-3760 x2
- 6.4.2 Warranty on third-party products, where sold as part of the AssetWorks GPS, will be as offered by the original manufacturer's warranty terms and Customer will be subject to these terms.
- 6.4.3 Activations; Invoicing. Notwithstanding any terms to the contrary, Customer agrees that deactivations of AssetWorks GPS-related units shall take effect in the next applicable subscription period and that fees will not be prorated nor refunded for units deactivated during the applicable subscription period.
- 6.5 FuelFocus, FuelDrive, & KeyValet
- 6.5.1 Technical Assistance. Telephone and/or Help desk support is available for FuelFocus & FuelDrive hardware issues 8:00AM-5:00pm ET Monday through Friday, by emailing fuelsupport@assetworks.com or calling 610-225-8350 (800-900-8152). Calls left after hours will be returned the next business day. Access to support after warranty period is on a commercially reasonable basis unless Customer is a fully paid subscriber for Maintenance.
- 6.5.2 Return Policy. Hardware may be returned within thirty (30) days of shipment by requesting a Returned Merchandise Authorization ("RMA") by emailing fuelsupport@assetworks.com or by calling 610-225-8350. RMAs are valid for fifteen (15) days from the date of issuance. Customer must ship the requested hardware, freight pre-paid, with original packing, manuals, and accessories (as applicable) to the RMA-identified return address with AssetWorks-issued RMA affixed and enclosed otherwise no credit will be issued. A minimum restocking fee of 25% will be charged against any return credit issued to Customer. AssetWorks shall refund, replace, or exchange (at its option) such Hardware within fifteen (15) business days of its receipt; provided, however, that AssetWorks reserves the right to reject returns of Hardware that are: (a) lacking a valid and/or unexpired RMA; (b) no longer in production; (c) used unless under warranty or other maintenance contract; (d) altered without AssetWorks' specific authorization; or (e) not evaluated by AssetWorks' personnel and/or returned in accordance with this section.
- 6.6 Limited Hardware Warranty. AssetWorks warrants Hardware to be free from defects in materials and workmanship for one (1) year from the date of original purchase; provided, however, that AssetWorks GPS Hardware is warranted for the entire Term ("Warranty Period"). During the Warranty Period, AssetWorks will provide new or rebuilt replacement parts for AssetWorks-verified defects within fifteen (15) business days of AssetWorks' receipt of such Hardware if evaluated by AssetWorks and returned in accordance with these terms. On-site labor and travel costs are not included. Replacements may be re-manufactured or reconditioned and will be warranted for the remainder of the original Warranty Period.
- 6.7 Hardware Warranty Exclusions. AssetWorks Hardware warranties do not cover and shall be void in regards to nor shall AssetWorks be responsible for any damages, costs, and/or repairs attributable in any way to: (i) faulty installation or installation otherwise not in accordance with AssetWorks installation manual or instructions; (ii) use of personnel other than authorized representatives of AssetWorks absent prior written approval from the AssetWorks Project Manager; (iii) water, fire, abuse, theft, vandalism, shipment, accident, operator error or lack of knowledge, power surges or failure, acts of god and force majeure; (iv) any condition not encountered during normal operation; (v) neglecting, misusing, tampering, or adjusting of the Hardware; (vi) Customer's failure to perform normal preventive maintenance; (vii) accessories attachments or other devices not furnished by AssetWorks; (viii) labor, travel, or any costs unrelated to parts; and (ix) expendable items such as magnetic card, printer ribbons, fuses, bulbs, and similar items and supplies subject to ordinary wear and tear.
- 6.8 HARDWARE WARRANTY DISCLAIMER. HARDWARE WARRANTIES ARE PROVIDED IN LIEU OF ALL OTHER RIGHTS, CONDITIONS, AND WARRANTIES. ASSETWORKS MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO HARDWARE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR NON-INFRINGEMENT. ASSETWORKS DOES NOT WARRANT THAT HARDWARE WILL BE ERROR-FREE OR THAT ANY DEFECTS THAT MAY EXIST IN PRODUCTS CAN BE CORRECTED. IN NO EVENT SHALL ASSETWORKS BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, LOST PROFITS, OR ANY OTHER SPECIAL, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, HOWEVER CAUSED WHETHER OR NOT ASSETWORKS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 7 PROFESSIONAL SERVICES.

- 7.1 Scope. AssetWorks will provide the professional services detailed on the Order Form and/or SOW (collectively “**Order**”) or otherwise requested by Customer (“**Professional Services**”).
- 7.2 Professional Services Fees. Customer agrees to pay the Professional Services fees as follows:
- 7.2.1 Each Order will be on a time and material basis, a fixed price basis, or a hybrid of both as specified in the Order. The Order may or may not include a definitive list of deliverables (“**Deliverables**”) that must be completed by AssetWorks. In some instances, the Order will include a date by which Deliverables must be completed.
- 7.2.2 In the event that Professional Services result in greater AssetWorks duties than required by the Order, Customer will work closely and in good faith with AssetWorks to modify the Order to ensure that Customer’s requirements are addressed and AssetWorks’ fees are adjusted to reflect increased Customer requirements.
- 7.2.3 Unless specifically addressed in the Order, all travel and expenses will be extra and billed as incurred.
- 7.2.4 Customer will bear the expense of its failure to meet all assumptions noted on the Order.
- 7.3 Subcontractors. AssetWorks may engage subcontractors to assist in performing Professional Services without the prior written consent of Customer so long as AssetWorks supervises such subcontractors as if AssetWorks performed the Professional Services.
- 7.4 Changes. If the parties cannot agree on a change related to a delay or project extension due to any reason beyond the control of AssetWorks, then AssetWorks shall have the right to stop work and receive a day-for-day extension pending agreement on such change or resolution via the dispute resolution process.
- 7.5 SOW Termination. AssetWorks may terminate or suspend performance of Professional Services under any Order for its convenience and/or effective immediately upon written notice if Customer fails to make any payment in full as and when due hereunder. Termination of an Order will not terminate this Agreement which shall survive for any Order still pending upon termination of this Agreement. Customer agrees to pay unbilled Professional Services provided to Customer up to the date of termination regardless if Customer accepted the Deliverable or if the milestone was achieved.

## 8 FEES & PAYMENT

- 8.1 Fees. Customer agrees to pay the fees detailed on the Order within thirty (30) days of invoice date as follows:
- 8.1.1 **Software license** fees are due and payable upon the Effective Date and thereafter upon license increase, if applicable.
- 8.1.2 **Service subscription fees for Maintenance/Support, Hosting, SaaS, and other recurring services** are due and payable upon the Effective Date and annually in advance thereafter absent 90-days’ written notice. **Unless Order provides otherwise, fees are based on Services purchased and not actual usage; quantities purchased cannot be decreased during the relevant subscription term.** Existing customers migrating to Hosting and/or SaaS shall be billed upon notification from AssetWorks that the Hosting/SaaS environment has been established.
- 8.1.3 **Professional Services Fees**, including one-time implementation or set-up fees identified on the Order, shall be billed either on a fixed-fee basis upon achievement of milestones pursuant to a mutually agreed project plan, on a time-and-materials basis monthly in arrears, or on a hybrid-fixed-T&M basis, in each case as detailed on the Order; and
- 8.1.4 **Hardware** shall be billed at cost upon delivery through an AssetWorks-selected common carrier, F.O.B. destination, with Customer responsible for any fees related to shipping such as custom duties, shipping insurance, etc.
- 8.2 Invoices; No Refunds. Customer agrees to pay the fees set forth on the Order within thirty (30) days of invoice, to the AssetWorks Contracting Entity identified on the Order, in the currency of the Order, preferably by electronic funds transfer (EFT) via Funds Transfer (Fed Wire) or Direct Deposit (ACH), without deduction, withholding, or offset. For late payment, Customer agrees to pay interest absent notice or demand in an amount equal to the lower of: (a) statutory interest in the prompt payment act applicable to Customer; (b) eighteen percent (18%) per annum compounded monthly; or (c) the maximum interest rate permitted by applicable law. All fees are nonrefundable unless Parties agree otherwise. Customer agrees to pay an administrative fee of 5% per invoice if: (d) invoice must be uploaded to a Customer or third-party portal; or (e) invoice requires custom preparation or presentation.
- 8.3 Additional Maintenance/Support Fee. As per section 4.3 above, Customer agrees that Maintenance/Support and SaaS subscription fees shall automatically increase based on additional software licenses, SaaS subscriptions, or custom-developed software.
- 8.4 Taxes. Amounts due under this Agreement are payable to AssetWorks without deduction net of any tax, tariff, duty, or assessment imposed by any government authority (national, state, provincial, or local), including without limitation any sales, use, excise, ad valorem, property, withholding, or value-added tax, whether or not withheld at the source (collectively, “Sales Tax”). Except as forbidden by applicable law, AssetWorks may require that Customer submit applicable Sales Taxes to AssetWorks unless Customer gives AssetWorks a valid tax exemption certificate within thirty (30) days of the Effective Date. AssetWorks’ failure to include any applicable tax in an invoice will not waive or dismiss the parties’ rights or obligations pursuant to this section. If applicable law requires withholding or deduction of Sales Taxes or any other tax or duty, Customer shall separately pay AssetWorks the withheld or deducted amount, over and above the fees on the Order. In the event a taxing authority conducts an audit of this Agreement and

determines that an additional tax should have been imposed or a refund of tax is due (other than those taxes levied on AssetWorks income), Customer shall reimburse AssetWorks, or AssetWorks shall reimburse such refund to Customer, for any such additional tax or any such refund, as applicable, including interest and penalties thereon.

- 8.5 Data Processing Audit. Eight hours per year shall be allocated to support Customer or its designee in an audit of records during business hours at AssetWorks location. Additional hours, if needed, will be billed at then-current hourly rates with Customer responsible for all out-of-pocket expenses incurred in connection with such audits.

**9 CONFIDENTIAL INFORMATION.** For purpose of this Agreement, Parties agree that “**Confidential Information**” means all information disclosed by or on behalf of either Party (“**disclosing party**”) to the other Party (“**recipient**”) during the Term, whether orally or in writing, that the recipient should reasonably understand to be confidential. Each Party will maintain all Confidential Information in confidence and will use it solely in the discharge of its obligations under this Agreement. Nothing herein will be deemed to restrict a Party from disclosing Confidential Information to its employees and subcontractors in the discharge of such obligations. Confidential Information will not include information that: (a) is or becomes generally known or available to the public through no fault of the recipient; (b) is known to the recipient at the time of its receipt from the disclosing party; (c) the disclosing party provides to a third party without restrictions on disclosure; (d) is subsequently and rightfully provided to the recipient by a third party without restriction on disclosure; (e) is independently developed by the recipient, without reference to the disclosing party’s Confidential Information; or (f) is required to be disclosed pursuant to a government agency or court ordered subpoena, provided the recipient promptly notifies the disclosing party of such order to allow disclosing party reasonable time to seek protective order or other appropriate relief. Because of the unique nature of the Confidential Information, each Party agrees that irreparable harm may occur in the event the recipient fails to comply with its confidentiality obligations herein, that monetary damages may be inadequate to compensate the disclosing party for such breach, and that the disclosing party may accordingly be entitled to injunctive relief.

## 10 WARRANTIES & DISCLAIMERS

- 10.1 Software Warranty. AssetWorks warrants the Software licensed or included with Hardware shall perform substantially in accordance with the Documentation for ninety (90) days from delivery which in any event shall not exceed one (1) year from the Effective Date. During the Software warranty period, in the event there exists a Deviation or nonconformance to the Documentation, which in the mutual and reasonable opinion of AssetWorks and Customer, constitutes a serious impediment to the normal intended use of the Software, AssetWorks’ sole responsibility shall be to correct the Deviation or nonconformance with due dispatch. Corrections to Deviations or nonconformance which do not rise to this level shall be corrected and distributed by AssetWorks in accordance with the published maintenance schedule provided Customer is subscribed for Maintenance.

- 10.2 Service Subscription Warranty. AssetWorks warrants the Service shall function substantially in conformance with the Documentation for so long as Customer pays in advance the subscription fee for the applicable Service (e.g. Maintenance, Hosting, and/or SaaS).

- 10.3 Professional Services Warranty. AssetWorks warrants that Professional Services will be performed with the degree of skill and judgement normally exercised by recognized professional firms performing substantially similar services. In the event of any breach of the foregoing warranty, AssetWorks will at its expense and discretion either: (a) correct the non-conforming Deliverables; or (b) refund to Customer the portion of Professional Services fees attributable to the non-conforming Deliverables. No Professional Services warranty claim will be effective unless Customer delivers to AssetWorks written notice detailing the non-conformities within sixty (60) days after tender of the non-conforming Deliverables. The remedy set forth in this section is the sole and exclusive remedy for breach of the foregoing Professional Services warranty. Customer represents and warrants that Customer has the right to use and furnish any information, specifications, data, or intellectual property that Customer has provided or will provide in order for AssetWorks to perform under this Agreement.

- 10.4 WARRANTY DISCLAIMER. Except to the extent set forth herein, CUSTOMER ACCEPTS THE SERVICE “**AS IS**”, “**AS AVAILABLE**”, and “**WITH ALL FAULTS**” AND ASSETWORKS DISCLAIMS ALL WARRANTIES INCLUDING WITHOUT LIMITATION: MERCHANTABILITY, FITNESS FOR PURPOSE, COMPLIANCE WITH LAW, ERROR-FREE PERFORMANCE, FUNCTIONALITY WITH THIRD-PARTY SOFTWARE OR HARDWARE, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, OR PERFORMANCE. ASSETWORKS DOES NOT WARRANT SERVICE WILL PERFORM ERROR-FREE OR WITHOUT INTERRUPTION NOR THAT CUSTOMER DATA WILL REMAIN PRIVATE, SECURE, OR AVAILABLE; NOR THAT ANY DEFECTS CAN BE CORRECTED.

## 11 INDEMNIFICATION.

- 11.1 IP Indemnity From AssetWorks. AssetWorks will defend, at its own expense, any action commenced against Customer to the extent based on a claim that the Software supplied by AssetWorks infringes a Worldwide patent or copyright (“**Claim**”), and AssetWorks will pay those costs and damages finally awarded against Customer to the extent attributable to any such Claim; provided, however, such defense and payments are conditioned on: (a) AssetWorks shall be immediately notified of any Claim; (b) AssetWorks shall have sole control of any defense, negotiations, settlements, or compromises to the extent related to such Claim; and (c) AssetWorks shall have the option to either: (i) procure a non-infringing license to use the Software; (ii) modify the Software to be non-infringing; or (iii) refund to Customer a depreciated credit for the Software which Parties agree shall be five (5) years.

- 11.2 Exclusions. AssetWorks shall have no liability to Customer with respect to: (a) Customer's breach of this Agreement, including without limitation its failure to cease use of the Service after AssetWorks' direction; (b) revisions to the Software or other Service components made without AssetWorks' written consent; (c) Customer's failure to incorporate Software updates or upgrades that would have avoided the alleged infringement, provided AssetWorks offered such updates or upgrades without charges not otherwise required pursuant to this Agreement; (d) AssetWorks' modification of Software in compliance with specifications provided by Customer, including without limitation Deliverables to the extent created based on such specifications; (e) any Deliverable if the Order or a disclosure provided at or before delivery states that such Deliverable incorporates third party software or other assets; or (f) use of the Service in combination with hardware or software not provided by AssetWorks.
- 11.3 Indemnity from Customer. Unless prohibited by Applicable Law, Customer shall indemnify and defend AssetWorks against any claims related in any way to Excluded Data or otherwise arising out of Customer's improper utilization of the Service.

## 12 LIMITATION OF LIABILITY.

- 12.1 Aggregate Dollar Cap. CUSTOMER AGREES THAT ASSETWORKS' CUMULATIVE LIABILITY SHALL NOT EXCEED FEES PAID DURING THE YEAR PRECEDING THE DATE ON WHICH THE LIABILITY AROSE FOR ALL CLAIMS RELATED TO SUCH ORDER.
- 12.2 Excluded Damages. CUSTOMER AGREES THAT ASSETWORKS SHALL NOT BE LIABLE FOR: (a) LOST PROFITS OR LOSS OF BUSINESS (WHETHER DIRECT OR INDIRECT); (b) SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (SUCH AS LOSS OF: USE, REVENUE, ACTUAL OR ANTICIPATED PROFITS OR SAVINGS, BUSINESS OPPORTUNITIES, DATA, GOODWILL, PRIVACY, REPUTATION); (c) ANY DAMAGES (HOWEVER CALCULATED OR ARISING) WHICH IN THE AGGREGATE EXCEED THE AMOUNT OF FEES PAID TO ASSETWORKS DURING THE YEAR PRECEDING THE DATE ON WHICH THE LIABILITY AROSE; OR (d) ANY CLAIMS WHICH CUSTOMER FAILS TO PRESENT TO ASSETWORKS IN WRITING WITHIN SIX (6) MONTHS AFTER EXPIRATION OR EARLIER TERMINATION OF THIS CONTRACT. THIS SECTION APPLIES: (e) TO THE BENEFIT OF ASSETWORKS' OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES, LICENSORS, SUPPLIERS, AND THIRD-PARTY CONTRACTORS, AS WELL AS: (f) TO LIABILITY REGARDLESS THE FORM OF ACTION OR THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, STRICT PRODUCT LIABILITY, NEGLIGENCE, OR OTHERWISE) EVEN IF ASSETWORKS IS ADVISED IN ADVANCE OF THE POSSIBILITY AND EVEN IF SUCH DAMAGES WERE FORESEEABLE; AND (g) EVEN IF CUSTOMER'S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.
- 12.3 Essential. The Parties' respective responsibilities, warranties, and limitations of liability herein form an essential basis of the Parties' bargain. If Applicable Law limits the application of the provisions of this section (*Limitation of Liability*), Customer acknowledges and agrees that AssetWorks' liability will be limited to: (a) the maximum extent permitted by law; (b) claims presented to AssetWorks principal office in writing within six (6) months of expiration or earlier termination of this Agreement; and (c) claims not waivable.

## 13 TERM & TERMINATION.

- 13.1 Term. The term of this Agreement will commence on the Effective Date and continue for the greater of: (a) the period detailed on the first page of this Agreement or the Order, or if none is specified, a default term of **five (5) years**; or (b) for so long as Customer continues to use the Services (the "**Term**"). Thereafter, the Term will renew for successive one (1) year periods upon mutual agreement absent ninety (90) days' written non-renewal notice from Customer.
- 13.2 Termination for Cause. Either Party may terminate this Agreement for: (a) material breach after providing written notice and reasonable opportunity to cure of no less than sixty (60) days; (b) failure of the Service to perform substantially in accordance with the Documentation due to an AssetWorks-verified issue for which a written action plan is not delivered to Customer within sixty (60) days of written notice from Customer; and (c) the other Party's insolvency, cessation of business, liquidation, assignment for the benefit of creditors, or any proceeding related thereto which is not dismissed within ninety (90) days.
- 13.3 Suspension for Nonpayment. Without limiting AssetWorks' other rights and remedies, AssetWorks may suspend or terminate access to the Service: (a) if Customer's account becomes delinquent and is not cured within ten (10) days of notice of nonpayment of undisputed fees; or (b) if AssetWorks reasonably concludes that Customer's actions are not consistent with the requirements of this Agreement or may subject AssetWorks or a third party to potential liability.
- 13.4 Effects of Termination. Upon termination of this Agreement, Customer shall cease all use of the Service and delete, destroy, or return all copies of the Documentation and Software in its possession or control. If Customer terminates this Agreement for any reason other than termination for cause, Customer will be obligated to pay the balance due for the remainder of the Term of the Agreement computed in accordance with the Order. Customer agrees to pay such fees and for all work performed and reasonable costs incurred up to the effective date of such termination however terminated. The following will survive termination or expiration of this Agreement: (a) any obligation of Customer to pay fees incurred before termination; (b) sections including but not limited to 1-4 (*SaaS, License, & Restrictions*), 9 (*Confidential Information*), 10.4 (*Warranty Disclaimers*), 11 (*Indemnification*), 12 (*Limitation of Liability*), 14 (*IPR Ownership*); and (c) any other provision of this Agreement that must survive to fulfill its essential purpose.

## 14 IPR OWNERSHIP; CUSTOMER DATA.

- 14.1 IPR Ownership. Customer and AssetWorks shall each retain ownership of and all right, title, and interest in and to their respective

pre-existing IPR and any derivatives thereto. AssetWorks will not obtain any ownership rights, title, or interest to Customer's confidential data files nor will Customer obtain any ownership rights, title, or interest to the Software, SaaS, systems, and methods developed or employed by AssetWorks (collectively referred to herein as the "**Service**"). Services performed, code developed, deliverables, and any IPR however arising during this Agreement ("**Developments**") are not "works made for hire" nor any similar concept throughout the world, and AssetWorks is the sole owner of all right, title, and interest in such Developments. If any Developments may be considered "works made for hire" such that any IPR may accrue to Customer, then Customer hereby irrevocably assigns and agrees to assign any and all right, title, and interest thereto, whether now known or hereafter defined or discovered, to AssetWorks and Customer agrees to take such further action as AssetWorks may reasonably request to evidence such assignment. If Customer provides suggestions, enhancement requests, or ideas related to Services ("**Feedback**"), Customer agrees that AssetWorks has all rights to use, exploit, and incorporate such Feedback into the Services without restriction or payment.

- 14.2 Return of Customer Data. For up to thirty (30) days (or such greater period of time agreed to by the Parties or required by Applicable Law) following expiration or termination of the Agreement for any reason ("**Customer Access Period**"), AssetWorks will provide Customer with reasonable access to Customer Data in its existing format: ASCII comma, separated value (CSV format) with binary images TIFF, JPG, or PRF. Requests after this period or for other formats are subject to approval and may require additional fee.
- 14.3 Erasure of Customer Data. AssetWorks may permanently erase or otherwise render unrecoverable Customer Data: (a) if Customer's account is delinquent, suspended, or terminated for sixty (60) days or more; or (b) at the end of the Customer Access Period except to the extent prohibited by applicable law.
- 14.4 Use of Customer Data. AssetWorks will only process Customer Data in accordance with Customer's instructions, with adequate safeguards, and to provide, maintain, support, and enhance the Services. AssetWorks shall not: (a) access, process, or otherwise use Customer Data contrary to this Agreement; (b) give Customer Data access to any third party, except AssetWorks' subcontractors that have a need for such access to facilitate the Service and are subject to a reasonable written agreement governing the use and security of Customer Data. Further, AssetWorks shall: (c) exercise reasonable efforts to prevent unauthorized disclosure or exposure of Customer Data; and (d) comply with all Applicable Laws that are applicable both specifically to AssetWorks and generally to data processors (if applicable) in the jurisdictions in which AssetWorks operates physical facilities. Notwithstanding anything to the contrary contained herein, AssetWorks may use, reproduce, sell, publicize, and otherwise commercially exploit De-Identified Data (as determined in its sole discretion) to the fullest extent permitted by law including without limitation aggregated with data from other customers and commercial sources. "**De-Identified Data**" refers to Customer Data with information that could reasonably be used to identify an individual person, household, User, or Customer is removed or otherwise rendered de-identified.
- 14.5 Required Disclosure of Customer Data. Notwithstanding anything to the contrary herein, AssetWorks may use and disclose Customer Data as required: (a) by Applicable Law; (b) by proper demand of legal or governmental authority; (c) to provide the Service or functionalities paid for by Customer. AssetWorks shall give Customer prompt notice of any such legal or governmental demand (unless notice is prohibited, in which case, AssetWorks shall only disclose Customer Data to the limited extent necessary to comply with such demand) and AssetWorks shall cooperate with any Customer-initiated effort to seek a protective order or otherwise to contest such demanded disclosure at Customer's expense.
- 14.6 Data Accuracy; Integrity; Risk of Exposure. Notwithstanding anything to the contrary herein including any terms which Customer purports are required by applicable law, AssetWorks does not guarantee the privacy, security, authenticity, integrity, or non-corruption of any information transmitted through the internet or any mobile or wireless network or stored in any system connected thereto. AssetWorks will not be responsible for any claims, damages, costs, or losses whatsoever arising or in any way related to Customer's connection to, use of, or storage connected to the internet or any mobile or wireless network, nor shall AssetWorks have any responsibility or liability for the accuracy of data uploaded to the Service by Customer. Customer recognizes and agrees that hosting data online involves risks of unauthorized disclosure or exposure and that, in accessing and using the Service, Customer assumes such risks and all losses. AssetWorks offers no representation, warranty, nor guarantee that Customer Data will not be exposed or disclosed through errors or the actions of third parties. AssetWorks will not be liable to Customer nor any third party for any losses related to Customer's use of the Software/Service insofar as such may be used to store, transmit, display, disclose, or otherwise utilize information which is considered private, confidential, proprietary, or otherwise exempt from public disclosure or subject to regulation under Applicable Law (e.g. Excluded Data).
- 14.7 Third Party Access. Customer acknowledges and agrees that Customer is responsible for protecting and securing all data, usernames, and passwords from unauthorized use, whether such use is by Customer or by any other person/organization to whom Customer grants access (whether directly or through AssetWorks) ("**Third Party**"). Customer represents and warrants that it has obtained all relevant consents from Users such as employees or relevant data subjects for this access. Customer agrees that access by the Third Party (or anyone to whom Customer provides direct or indirect access) is at Customer's sole risk and expense. Customer further agrees to indemnify and hold AssetWorks harmless against any and all claims, losses, costs, damages, and liabilities arising out of or in any way related to such access, including but not limited to the failure to notify or obtain consent for this transfer or such access.

- 14.8 Customer Data Warranty Disclaimer. Customer warrants that: (a) it has not, will not, nor will it permit the transmission of Excluded Data to AssetWorks or otherwise into the Service; (b) Customer Data does not and will not include Excluded Data except to the extent necessary to make ordinary use of the Service in accordance with the Documentation; and (c) it shall inform AssetWorks of any Excluded Data promptly after discovery (without limiting AssetWorks' rights or remedies). Customer recognizes and agrees that: (i) the provisions of this Agreement related to Customer Data do not apply to Excluded Data; (ii) AssetWorks has no liability for any failure to provide protections required by law applicable to Excluded Data or otherwise to protect Excluded Data; and (iii) AssetWorks' Services are not intended for management nor protection of Excluded Data and may not provide adequate or legally required security for Excluded Data. AssetWorks is not responsible nor liable for any exposure or related loss to the extent that it involves Excluded Data.
- 14.9 Additional Fees. Unless explicitly prohibited by Applicable Law, Customer recognizes and agrees that AssetWorks may charge additional fees (without limitation) for: (a) activities (if any) required by Applicable Laws, and (b) activities requested of AssetWorks to help Customer comply with Applicable Laws.

**15 PREDICTIVE ANALYTICS; TELEMATICS CLOUD; COLLECTION AND USE OF ASSET DATA:** In the course of providing the Service, AssetWorks may receive or collect spatial data relating to the vehicles, mobile objects, devices, locations, Users (whether employees, contractors, suppliers, and/or customers of Customer), including but not limited to, vehicle identification number (VIN), GPS location, vehicle speed, acceleration, driver-behavior information, vehicle diagnostics information, User ID numbers, and other usage information ("**Collected Data**"). If required, Customer agrees to notify its Users that a vehicle or other asset has been fitted with equipment enabled for the Service which collects and analyzes data points associated with the vehicle's location and manner of operation. If Customer and/or User provided consent, AssetWorks may continue to receive and collect the Collected Data after the termination of the Service for purposes of facilitating Third-Party access requested by Customer. Customer agrees that, during and after termination of the Service, AssetWorks, its affiliates, and/or third-party suppliers may: (i) retain and use Collected Data to provide and improve the Service, Maintenance/Support, and Professional Services, and for conducting research and development; (ii) AssetWorks may share Collected Data with affiliates and third-parties providing services to AssetWorks subject to obligations of confidentiality; (iii) AssetWorks may disclose Collected Data if required under applicable law, regulation, or court order; and (iv) AssetWorks may use and share with third-parties any Collected Data in aggregated or deidentified form (such that the source of the Collected Data cannot be identified) or that is publicly available without any restriction. Customer acknowledges that Collected Data may be commercially exploited by or on behalf of AssetWorks for commercial marketing purposes, subject to the permissions and restrictions set forth in this Agreement, and in AssetWorks' then-current privacy policy (available at [www.AssetWorks.com/privacy](http://www.AssetWorks.com/privacy)). To the extent required by applicable law, Customer agrees to provide notice to and to receive consents from its Users of: (v) the nature of the equipment and Service, (vi) AssetWorks' collection, use, and disclosure of Collected Data (which may contain Confidential Information) from time to time, and (vii) whether and if so the extent to which such Users' whereabouts, movements, vehicle usage, and other activities may be excluded from Collected Data or disassociated with such User.

## 16 THIRD-PARTY SERVICES

- 16.1 Third-Party Integrations. The Service may contain features which interoperate with products, applications, or services not provided by AssetWorks ("**Third-Party Service**"). To use such features, Customer may be required to obtain access to such Third-Party Service and may be required to grant AssetWorks access to Customer's account on such Third-Party Service. If Customer chooses to use a Third-Party Service with the Service, Customer hereby grants AssetWorks permission to allow the Third-Party Service and its providers to access any data (including data that may constitute Confidential Information) provided to AssetWorks by or on behalf of Customer as required for the interoperation of that Third-Party Service with the Service. Customer shall provide (and shall cause the provider of the Third-Party Service to provide) AssetWorks with any reasonably required information and materials needed to integrate the Third-Party Service. Customer's use of a Third-Party Service will be subject to the applicable term between such Third Party and Customer. Customer recognizes and agrees that Customer Data and data regarding Customer's use of a Third-Party Service may be shared with and/or collected by such Third Party to improve that Third-Party Service.
- 16.2 Third-Party Disclaimer. AssetWorks provides integrations with Third-Party Services solely as a convenience which Customer accesses at its own risk. ASSETWORKS IS NOT RESPONSIBLE FOR THE UNAVAILABILITY, ACCURACY, OR RELIABILITY OF ANY INFORMATION, DATA, OR CONTENT FROM SUCH THIRD-PARTY SERVICES. AssetWorks is not responsible for any disclosure, modification, or deletion of such data resulting from such access by any Third-Party Service or its provider. Any acquisition by Customer of a Third-Party Service and any exchange of data thereby is solely between Customer and such Third Party. Unless agreed otherwise, AssetWorks neither warrants nor supports the Third-Party Service whether or not they are designated by AssetWorks as operable with the Service. Further, AssetWorks cannot guarantee the continued availability of and may cease to offer any Service features that interoperate with any Third-Party Service without entitling Customer to any refund, credit, or other compensation, if for example (without limit) the provider of a Third-Party Service ceases to make the Third-Party Service available for interoperation with the corresponding Service features in a manner deemed acceptable to AssetWorks at its sole discretion.

## 17 API Terms

- 17.1 **API Definitions.** As used in this section, “**API Information**” means all information and data that is created, captured, or is otherwise accessible from the AssetWorks APIs through use of the Service. “**AssetWorks APIs**” or “**APIs**” mean AssetWorks’ current or future application program interfaces (e.g., MAXQueue Module PLUS and Integrations Module PLUS (M5))
- 17.2 **API License.** Subject to the terms and conditions of this Agreement, AssetWorks grants to Customer during the prepaid term a personal, revocable, limited, non-exclusive, royalty-free, non-sublicensable, non-transferable, terminable subscription-based license to access or otherwise receive information from the AssetWorks APIs and to obtain API Information. This API ‘license’ is granted solely to aid Customer’s internal provisioning of the Service to Users and for no other purpose.
- 17.3 **Access Tokens or Security Keys.** AssetWorks will give Customer and/or Users unique access token(s) or security key(s) to access the AssetWorks APIs for the purpose of accessing and receiving API Information. Customer will immediately notify AssetWorks if any User’s access tokens or security keys are used or suspected of being used by a third party. Neither Customer, its Users, nor any Third Party is authorized to provide direct access, access token(s), or security key(s) for the AssetWorks APIs.
- 17.4 **Limitations and Restrictions.** The API license granted to Customer is subject to the following limitations and restrictions:
- 17.4.1 AssetWorks may, in its sole discretion, (a) modify, change, update and/or enhance the AssetWorks APIs at any time (a “Modification”), provided AssetWorks gives Customer commercially reasonable notice and supports Customer’s access to the AssetWorks API in the same manner as prior to the Modification for a commercially reasonable period of time. Notwithstanding the foregoing, AssetWorks may suspend, terminate and/or revoke Customer’s access, or make a Modification without providing notice if necessary to address or prevent a security breach or to protect from the unauthorized disclosure of any API Information or other personally identifying information. In such circumstances, AssetWorks will notify Customer and use commercially reasonable efforts to ameliorate any impact from such action.
- 17.4.2 Customer acknowledges that, except as set forth in the API License section above, nothing in this Agreement grants or assigns to Customer (nor its Affiliates or any third party) any right, title, interest, or license of any kind, including in any patents, copyrights, trade secrets, trademarks, logos or other IPRs of AssetWorks.
- 17.4.3 AssetWorks may establish limits on the use of the AssetWorks APIs, including, but not limited to, the number of AssetWorks API requests initiated over a limited time period (e.g., per minute, hourly, and daily) upon advance notice to Customer and only to protect the functioning, security, and/or reliability of the API Information and/or AssetWorks APIs. AssetWorks shall make commercially reasonable efforts to maintain the availability of the AssetWorks API but does not guarantee the service level, availability, or quality of service of the AssetWorks APIs.
- 17.4.4 To the extent obtained by Customer pursuant to this Agreement, Customer will protect all API Information from unauthorized alteration, copying, access, storage, transmittal, or use. Customer must immediately notify AssetWorks of any unauthorized use, disclosure, or access to API Information.
- 17.4.5 Customer will not: (a) make derivative works of, reverse engineer, reverse compile, or disassemble the AssetWorks APIs; or (b) access or use the AssetWorks APIs in any unauthorized manner, including any way that will (i) infringe any AssetWorks’ or third party’s copyright, patent, trademark, trade secret, other property rights or rights of publicity or privacy; or (ii) violate any applicable law, statute, ordinance, or regulation.
- 17.5 **Customer API Security.** Customer will not: (a) use any robot, spider, site search or other retrieval application or device to scrape, retrieve or index services or collect, disseminate, use, store or disclose information about AssetWorks customers for any unauthorized purpose; (b) disable, override or otherwise interfere with any AssetWorks alerts, warnings, display panels, consent panels and the like; (c) disrupt, disable, harm or otherwise impede the operation of any software, firmware, hardware, wireless communications device, computer system or network; (d) enable any third party to access the AssetWorks APIs to circumvent Service controls or otherwise penetrate AssetWorks network; or (v) take any action that affects or is otherwise competitive with any AssetWorks Service. Customer is solely responsible for protecting the confidentiality of any API Information or data that it collects or uses from the AssetWorks APIs.
- 17.6 **API Disclaimer.** ALL INFORMATION, MATERIALS, SOFTWARE, TECHNOLOGY, AND SERVICES PROVIDED BY ASSETWORKS INCLUDING (WITHOUT LIMIT) THE ASSETWORKS APIS ARE PROVIDED “**AS IS**”, “**AS AVAILABLE**”, and “**WITH ALL FAULTS**”. ASSETWORKS DOES NOT MAKE AND EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS, OR ENDORSEMENTS OF ANY KIND WHATSOEVER INCLUDING (WITHOUT LIMIT) THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE, AND THE WARRANTIES OF TITLE OR NONINFRINGEMENT. CUSTOMER AND/OR ITS INTERMEDIARIES ASSUME ALL RISK AS TO THE AVAILABILITY, SUITABILITY, QUALITY, AND PERFORMANCE OF THE ASSETWORKS APIS AND API INFORMATION AND ASSETWORKS EXPRESSLY DISCLAIMS ALL RESPONSIBILITY AND LIABILITY RELATED THERETO.



## 19 MISCELLANEOUS.

Independent Contractors. Parties are independent contractors in all regards. Neither party is an agent authorized to make commitments on the other's behalf. Notices. Any communication or notice hereunder must be in writing and will be deemed given and effective: (i) when delivered personally with proof of receipt; (ii) when sent by e-mail provided a Party may decline to receive e-mail notice; (iii) when delivered by overnight express; or (iv) three days after the postmark date when mailed by certified or registered mail, postage prepaid, return receipt requested, in each case addressed to the Party at its address for notices stated on the Order or identified herein. Such address may be changed by a notice delivered to the other Party in accordance with the provisions of this Section. Force Majeure. Neither party will be liable for any failure of or delay in performance of its obligations under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, wars, civil disturbances, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes, failure of common carriers, internet services providers, or other communication devices, acts of cyber criminals, acts of any governmental body (whether civil, military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a Party is obtaining or must obtain approvals, authorizations, licenses, franchises, or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "**Force Majeure**"); however, nothing in this Section shall relieve Customer of the obligation to make payments when due. Any delays cause by Force Majeure shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled will be extended for a period equal to the time lost as a result of such delays. Neither Party shall be liable to the other for any liability claims, damages, or other loss caused by or resulting from Force Majeure. Assignment & Successors. Neither Party may assign this Agreement nor any of its rights or obligations hereunder without the prior express written consent of the other Party, which approval shall not be unreasonably withheld. This Agreement will be binding upon and inure to the benefit of the Parties' respective successors and permitted assigns. Notwithstanding the foregoing, in the event of an assignment or novation of this Agreement to an AssetWorks' affiliate pursuant to a *bona fide* internal corporate reorganization, AssetWorks shall not require Customer's prior written consent. Severability. To the extent permitted by applicable law, the Parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. If a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect. No Waiver. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any other breach of this Agreement. Non-Solicitation. During the Term of this Agreement and for one year thereafter, Customer shall not solicit the employment nor contract for the services of any individual or entity that was an employee, agent, or subcontractor of AssetWorks during the Term of this Agreement. Nothing in this section shall prohibit Customer from placing a *bona fide* public advertisement for employment which is not specifically targeted at AssetWorks, nor shall Customer be restricted from hiring any such person who responds to any such general solicitation or public advertisement so long as no direct solicitation of such person has occurred. Choice of Law & Jurisdiction: This Agreement will be governed solely by the internal laws of the State of New York without reference to: (a) any conflicts of law principle; (b) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (c) other international laws. The Parties consent to the personal and exclusive jurisdiction of the federal and state courts of New York, New York. Construction; Conflicts. The Parties agree that the terms of this Agreement result from arms-length negotiations and its terms will not be construed in favor of or against either Party by reason of authorship. All exhibits, schedules, and documents attached hereto or incorporated herein are intended to be read and construed in harmony with each other. In the event of any conflict between any provision of this Agreement, the order of precedence set forth on page 1 of this Agreement shall control. Any Customer purchase order terms are deemed to be for Customer's internal purposes only and are specifically rejected. Section headings are inserted only for convenience and in no way define, limit, extend, or otherwise impact the interpretation of any section or this Agreement. Counsel. By acceptance of this Agreement, each of the Parties acknowledges and agrees that it has had an opportunity to consult with legal counsel and that it knowingly and voluntarily waives any right to a trial by jury of any dispute pertaining to or relating in any way to the transactions contemplated by the Agreement, the provisions of any federal, state, or local law, regulation, or ordinance notwithstanding. Technology Export. Customer shall not: (a) permit any third party to access or use the Service in violation of any law or regulation; or (b) export any Software or Confidential Information provided by AssetWorks except in compliance with all applicable laws and regulations. Without limiting the generality of the foregoing, Customer shall not permit any third party to access or use the Service in, nor export the Software or Confidential Information to, a country subject to a United States embargo (e.g., the Crimea Region of Ukraine, Cuba, Iran, North Korea, Russia, and Syria). Entire Agreement. This Agreement sets forth the entire agreement of the parties and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to its subject matter. Neither party has relied upon any such prior or contemporaneous communications. Each of the Parties represents and warrants that the Agreement is a valid and binding obligation enforceable against it and executed by its duly authorized representative. Electronic Execution in Counterparts. This Agreement may be executed electronically (e.g. DocuSign) and in one or more counterparts, each of which will be an original, and all which will constitute a single instrument. Amendment. This Agreement may only be amended via written agreement signed by both Parties' authorized representatives that explicitly states its intent to amend this Agreement. Customer PO terms are null and void. Notwithstanding the foregoing, AssetWorks may revise the Documentation at any time effective on the date posted provided such amended Documentation shall not materially reduce Customer's rights or protections.

20 DEFINITIONS. The following capitalized terms will have the following meanings whenever used in this Agreement.

20.1 “Active Equipment Unit License” means a license for each Active Equipment Unit covered by or utilizing the Service. “Active Equipment Unit” means any vehicle, asset, or other unit on which work is performed or for which activity is reported. Customer must pay fees to cover all Active Equipment Units unless Parties agree otherwise.

20.2 “AssetWorks Contracting Party” means the specific entity identified on the Order Form and shown below:

For USA Customers:	For UK & EU Customers:	
<b>AssetWorks Inc.</b>	<b>AssetWorks Fleet Solutions Ltd.</b>	<b>Lightbulb Analytics Limited</b>
Delaware Corporation EIN 46-0521049	England & Wales Company No. 15298579	England & Wales Company No. 01843754
1001 Old Cassatt Road, Ste. 204 Berwyn, PA 19312	Brook Suite, Ground Floor, Bewley House, Marshfield Road, Chippenham, SN15 1JW	Egale One, 80 St Albans Road, Watford, Herts, WD17 1DL
[INSERT ASSETWORKS' CUSTOMER P.O.C.]	<a href="mailto:mike.gadd@assetworks.com">mike.gadd@assetworks.com</a>	<a href="mailto:Adrian.mcmullan@lba.ltd">Adrian.mcmullan@lba.ltd</a>
CC: <a href="mailto:legal@assetworks.com">legal@assetworks.com</a>	CC: <a href="mailto:legal@assetworks.com">legal@assetworks.com</a>	CC: <a href="mailto:legal@assetworks.com">legal@assetworks.com</a>

20.3 “Concurrent License” means a license for an authorized user of the Software, provided that the number of simultaneous users may not exceed the number of licenses purchased. Each simultaneous login to the Software (through active browser sessions) will be deemed to constitute one Concurrent License.

20.4 “Customer Data” means any data, information, or material that Customer or Customer’s Users may disclose or submit to AssetWorks or the Service in the course of properly using the Service in accordance with the Documentation and best practices regarding minimization of personal information. Customer Data does not include Excluded Data, public information, or inferences derivable from Customer Data.

20.5 “Documentation” means the standard documentation and/or user manual (i.e. technical literature) provided or published by AssetWorks. Company shall ensure that any copies of such documentation include the following marking:

*AssetWorks Inc. reserves all rights in this document, the subject matter, illustrations, and methodologies contained therein. Any reproduction, disclosure to third parties, or utilization of its contents – in whole or in parts – is forbidden without prior written consent of AssetWorks Inc. © Copyright 2024 AssetWorks Inc. All rights reserved.*

20.6 “Enterprise License” means a license for the Software that allows for an unlimited number of users and tracks an unlimited amount of assets. Pricing is based on the population of the city, town, region, fleet, college, university, department, etc. (“Population Base”) Customer utilizes in the Enterprise License to cover. Customer must promptly pay increased fees for an Enterprise License reconciliation if Customer’s Population Base increases beyond the Customer’s licensed limits for any reason, including, but not limited to, a material increase in Population Base, use of the Software to provide the Services to an additional population, or merger of Customer with any other entity that increases the population served by the Software.

20.7 “Excluded Data” means Payment Card Industry (PCI) or similar regulated financial information; protected health information (PHE) under HIPAA or similar regulated medical information of any nature; personal financial or any sensitive personal information subject to heightened privacy and/or security requirements by law, regulation, or applicable third-party terms (e.g., government issued identification or license numbers, personal bank account numbers, passport or visa numbers, credit card numbers, social security numbers, passwords and security credentials); or any other unnecessary personal identifiers (i.e., any information capable of truncation, hashing, or greater minimization); and any other categories of data for which the Service is not suitable or the input of which is unnecessary to make ordinary use of the Service per the Documentation and Customer’s own policies and best practices in regards to Excluded Data.

20.8 “Order Effective Date” means the date: (a) an Order is countersigned by the Parties, (b) an Order is signed by Customer and/or its authorized intermediary and accepted by AssetWorks, or (c) which the Parties deemed their agreement to be effective as of.

20.9 “Software” means AssetWorks’ proprietary Software either: (a) perpetually licensed for on-premise installation in a Customer Environment, (b) perpetually licensed and hosted by AssetWorks in a Hosted Environment, (c) made available through an access-restricted website or designated IP address hosted via a third-party data center on a prepaid-subscription basis inclusive with Maintenance/Support under a software-as-a-service model (“SaaS”). “Software” includes commercially available updates, enhancements, and new versions if Customer subscribes for Maintenance/Support and may be revoked for material breach (e.g. nonpayment) to the extent permitted by Applicable Law.

20.10 “Intellectual Property Rights” or “IPR” means unpatented inventions, patent applications, patents, design rights, works of authorship, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how, ideas, concepts, algorithms, database schema, and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world with respect to all intellectual property incorporated into any Development, ORDER, or other deliverable whether or not first created, discovered, or developed by AssetWorks in providing the Services.

20.11 “Order” or “Order Form(s)” means the form evidencing the initial license or subscription and any subsequent Order submitted online or in written form (including any countersigned ORDER), specifying the applicable Software, SaaS, Services, fees, and other charges agreed to between the Parties, each such fully executed Order to be incorporated into and to become a part of this Agreement (in the event of any conflict between the terms of this Agreement and the terms of any such Order, the terms of the Order shall prevail);

20.12 “Source Code” means software in human-readable form, including all appropriate programmer’s comments, data files and structures,

header and include files, macros, make files, object libraries, programming tools not commercially available, technical specifications, flowcharts and logic diagrams, schematics, annotations and documentation reasonably required or necessary to enable a competent independent third party programmer to create, operate, maintain, modify and improve such software without the help of any other person, and with data files containing Source Code in standard ASCII format readable by a text editor.

- 20.13 **“User(s)”** or means Customer’s employees, representatives, consultants, contractors, or agents who use the Service on Customer’s behalf or through Customer’s account or passwords (whether or not authorized).
- 20.14 **“Deliverable(s)”** means any copyrightable works, code developed, products, discoveries, developments, designs, work product, deliverables, improvements, inventions, processes, techniques and know-how made, conceived, reduced to practice or learned by AssetWorks (either alone or jointly with Customer or others) that arise during the Term of this Agreement or result from Professional Services performed pursuant to any Order and delivered to Customer hereunder. *Deliverables are not “works made for hire”*
- 20.15 **“Law”** or **“Applicable Law(s)”** means privacy and security laws governing AssetWorks’ handling (if any) of Customer Data and other applicable laws and regulations in force as of the Effective Date. For the avoidance of doubt, Applicable Laws do not include laws applicable to Customer or its data to the extent not described in the preceding sentence, including laws in regards to Excluded Data.
- 20.16 **“Maintenance”** means the support and maintenance services provided by AssetWorks to Customer on a pre-paid annual subscription basis (i.e. maintenance-as-a-product) inclusive with SaaS but exclusive of Hosting Services and Professional Services.
- 20.17 **“Professional Services”** means those technical or non-technical services performed or delivered by AssetWorks under this Agreement as set forth in an Order.
- 20.18 **“Order”** means any AssetWorks quotation agreed to by Customer, AssetWorks Order Form, statement of work, or other terms set forth on any ordering document executed in writing by the Parties provided such document incorporates AssetWorks quotation.
- 20.19 **“SLA”** means AssetWorks’ service level objectives, target availability level, and service level credit for unavailability of the Service.