



State of Oklahoma
Office of State Finance
Information Services Division

Information Technology
Software and Services
Agreement

SHI International Corp. (SHI) Enterprise Agreement – ITSW1010

for

Desktop Products and Services

THIS CONTRACT is made by and between the State of Oklahoma Office of State Finance (OSF) located at 3115 N. Lincoln Blvd. Oklahoma City, OK 73105, and SHI International Corp. (SHI) (Contractor) with its principal place of business located at: 290 Davidson Avenue, Somerset, NJ 08873.

NOW THEREFORE, in consideration of the terms, and conditions of this Contract, the parties agree as follows:

TABLE OF CONTENTS

A.	Contract Description	4
A.1.	Purpose	4
A.2.	Current Product Offerings and Discounts.....	4
A.3.	Provided Services	4
A.4.	Value Add.....	4
B.	GENERAL PROVISIONS	5
B.1.	Definitions	5
B.2.	Limitation of Liability.....	5
B.3.	Contract Term, Renewal and Extension Option	5
B.4.	Annual Contract Review.....	6
B.5.	Contract Modification	6
B.6.	Certification Regarding Debarment, Suspension, and Other Responsibility Matters.....	6
B.7.	Delivery, Inspection and Acceptance	6
B.8.	Invoicing and Payment.....	6
B.9.	Tax Exemption	7
B.10.	Audit and Records Clause.....	7
B.11.	Non-Appropriation Clause.....	7
B.12.	Choice of Law	7
B.13.	Choice of Venue.....	7
B.14.	Termination for Cause.....	7
B.15.	Termination for Convenience	7
B.16.	Insurance	7
B.17.	Employment Relationship.....	8
B.18.	Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007.....	8
B.19.	Compliance with Applicable Laws	8
B.20.	Gratuities.....	8
B.21.	Mutual Responsibilities.....	8
B.22.	Confidentiality.....	8
B.23.	Unauthorized Obligations	8
B.24.	Electronic and Information Technology Accessibility.....	8
B.25.	Patents and Copyrights.....	9
B.26.	Assignment	9
B.27.	Severability.....	9
B.28.	Failure to Enforce.....	10
B.29.	Contract.....	10
B.30.	Conflict of Interest	10
B.31.	Offshore Services.....	10
B.32.	Failure to Provide.....	10
B.33.	Emerging Technologies.....	10
B.34.	Right to Renegotiate	10
B.36.	Commercial Off-The-Shelf (Cots) Software.....	10
B.37.	Contractors and Sub-Contractors Obligations.....	10
B.38.	Authorized Users.....	11
B.39.	Type of Contract.....	11
B.40.	Contractor Services.....	11
B.41.	Ordering	11
B.42.	Acceptance	11
B.43.	Partial Shipments	11
B.44.	Price Schedule Administration	11
C.	Contract requirements	13
C.1.	Administrative Fee	13
C.2.	Contract Usage Reporting Requirements.....	13
C.3.	Web Site Requirements	14

D. signature block 15

A. CONTRACT DESCRIPTION

A.1. Purpose

The purpose of this contract is to outline the working relationship between the State of Oklahoma and Software House International (SHI) to provide for state agencies and governmental entities the means to procure desktop software and supporting services.

A.2. Current Product Offerings and Discounts

Manufacturer or Product	Percentage Off MSRP
Microsoft products	17.7%
Adobe products	15%
SAP/Business Objects for Crystals Reports products	11%

A.3. Provided Services

SHI will provide to following services:

- a) Dedicated and empowered Account Team for order placement
- b) Toll free telephone support for contract ordering questions/research available on a Monday through Friday basis (excluding legal holidays), 8:00 am to 5:00 pm CST
- c) PRO Renewal timeline – 24/7 visibility to upcoming contract/maintenance renewals for all renewable items purchased through SHI
- d) All valid contract orders processed within 24 hours of receipt with delivery, when applicable within 2-5 days
- e) No minimum order quantities (unless stipulated by mfg terms)
- f) No shipping charges
- g) Free Scheduled and Ad-Hoc reporting
- h) Access to certified software training
- i) Local (local is defined providers located in the State of Oklahoma) access to off-site software training provided by certified instructors.

A.4. Value Add

SHI will also provide the value added services outlined below:

- A.4.1. Assist the State of Oklahoma to work proactively to uncover opportunities for savings for other commonly purchased software products outside of the listed group above.
 - a) One way is through consolidation and co-termination of items currently purchased disparately by the individual agencies, or at random times throughout the year.
 - b) The other is in changing purchases that are currently made directly with a software publisher to a purchase through SHI where we may have a reseller discount in place
- A.4.2. Non-fee and Fee based services as reviewed and approved by OSF.

B. GENERAL PROVISIONS

B.1. Definitions

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- B.1.1. "Acquisition" means items, products, materials, supplies, services and equipment a State agency acquires by purchase, lease purchase, lease with option to purchase, or rental pursuant to the Oklahoma Central Purchasing Act;
- B.1.2. "Addendum" means a written modification to a contract.
- B.1.3. "Alteration" means a modification an offeror makes to a solicitation response prior to the response due date.
- B.1.4. "Business Entity" means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, limited liability limited partnership, sole proprietorship, joint stock company, consortium, or other legal entity recognized by statute;
- B.1.5. "COTS" means Commercial off the Shelf.
- B.1.6. "Contract" means the final agreement under which the services and/or products shall be governed.
- B.1.7. "Contractor" means the Business Entity with whom the State enters into this contract.
- B.1.8. "Government Entities" means State Agencies, Boards, Commissions, Authorities, Oklahoma Counties, Cities, Schools, Hospitals, Regents of Higher Education, Colleges, Universities, Municipalities, or political subdivisions;
- B.1.9. "MSRP" Manufacturer Suggested Retail Price
- B.1.10. "Procuring Agency" means the State of Oklahoma Agency initiating the procurement.
- B.1.11. "State" means the government of the State of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of Oklahoma. References to "State" in this document refer to either the Department of Central Services or the Office of State Finance.
- B.1.12. "State Agency" includes any office, officer, bureau, board, counsel, court, commission, institution, unit, division, body, or house of the executive or judicial branches of the State government, whether elected or appointed, excluding only political subdivisions of the State.
- B.1.13. "State CIO" is the State Chief Information Officer, as used herein the CIO has the same authority as the State Purchasing Director for all IT and Telecommunications purchasing and are used interchangeably.

B.2. Limitation of Liability

Neither party will be liable for any special, punitive, indirect, incidental or consequential damages including, but not limited to, loss of or damage to data, loss of anticipated profits, work stoppage or impairment of other assets, whether or not foreseeable and whether or not a party has been advised of the possibility of such damages, except when such damages arise out of obligations of confidentiality or indemnification, in which event the damages will be considered "direct" damages and recovery shall not be barred. Except in the case of breach of each party's liability under indemnification obligations herein, either party's total cumulative liability to the other, whether in contract, tort or other theory, will not exceed the amount of fees actually paid or payable by the State to SHI under this Agreement for the year previous to the incident which gave cause for such liability.

In addition, the following limitation of liability clause applies to every term within this Contract which may limit Contractor's liability to the State.

"To the extent any limitation of liability contained herein is construed by a court of competent jurisdiction to be a limitation of liability in violation of Oklahoma law, such limitation of liability shall be void."

B.3. Contract Term, Renewal and Extension Option

- B.3.1. The initial contract period shall begin on the effective date and shall extend through One (1) Year unless renewed, extended, or terminated in accordance with applicable contract provisions. SHI shall not commence work, commit funds, incur costs, or in any way act to obligate the State until so notified in writing of the approval of the contract. The authorized State representative is the only individual who can transmit that approval to SHI.
- B.3.2. Under Oklahoma law, the State may not contract for a period longer than one (1) year. By mutual consent of the parties hereto, it is intended that there shall be four (4) options to renew, each for duration of one (1) year.
- B.3.3. The State, at its sole option, may choose to exercise an extension for 90 days beyond the final renewal option period, at the contract compensation rate for the extended period. If this option is exercised, the State shall notify SHI in writing prior to contract end date. The State, at its sole option, may choose to exercise subsequent 90 day extensions, by mutual consent and at the contract compensation rate, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to new contractor.

- B.3.4. Notification to exercise the option to renew the contract shall be set forth, in writing, by the State at least 30 days prior to the end of each contract period. The contract shall be contingent upon approval by the State. If a decision is made not to exercise an option period, notice shall be sent at least 30 days prior to the end of the current contract period.

B.4. Annual Contract Review

Under Oklahoma law, the State may not contract for a period longer than one (1) year. After the initial term of one year, this Contract may be renewed annually upon mutual written consent of the parties. Prior to each renewal, the State will:

- a) review the terms and conditions to determine validity with current state statutes and rules
- b) review current price discount offering
- c) review current services and support provided.
- d) If required prior to renewal, the State will work with SHI to incorporate any required changes to this agreement.

B.5. Contract Modification

- B.5.1. This contract is under the authority of the State personnel signing the Contract. This contract may be modified only through a written Contract Modification, signed by the State.
- B.5.2. Any change to this contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the Office of State Finance in writing, or made unilaterally by SHI, is a breach of the contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Contract Modifications, shall be void and without effect, and SHI shall not be entitled to any claim under a contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant contract.

B.6. Certification Regarding Debarment, Suspension, and Other Responsibility Matters

- B.6.1. SHI certifies to the best of their knowledge and belief, that they and their principals or participants:
- B.6.1.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State of Oklahoma or local department or agency;
 - B.6.1.2. Have not within a three-year period preceding this solicitation been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract; or for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - B.6.1.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated above of this certification; and
 - B.6.1.4. Have not within a three-year period preceding this solicitation had one or more public (Federal, State or local) contracts terminated for cause or default.

B.7. Delivery, Inspection and Acceptance

- B.7.1. All deliveries shall be F.O.B. Destination. SHI shall prepay all packaging, handling, shipping and delivery charges and firm prices quoted in the offer shall include all such charges. All products and/or services to be delivered pursuant to the contract shall be subject to final inspection and acceptance by the State at destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of SHI until accepted by the receiving agency. SHI contractor shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.
- B.7.2. SHI is required to deliver products and services as offered on or before the required date. Deviations, substitutions, or changes in products and services shall not be made unless expressly authorized in writing by the State.

B.8. Invoicing and Payment

- B.8.1. SHI shall be paid upon submission of an accurate and proper invoice(s), as defined by Title 62 O.S. §34.73, to the agency, at the prices stipulated on the contract. Failure to provide accurate invoices may result in delay of processing invoices for payment. Pursuant to 74 O.S. §85.44B, invoices shall be paid in arrears after products have been delivered or services provided. Invoices shall contain the purchase order number, a description of the services provided, and the dates of those services.
- B.8.2. Interest on late payments made by the State of Oklahoma is governed by Title 62 O.S. §34.71 and 62 O.S. §34.72.

B.9. Tax Exemption

State agency acquisitions are exempt from sales taxes and federal excise taxes.

B.10. Audit and Records Clause

- B.10.1.** As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. SHI agrees that any pertinent State or Federal agency shall have the right to examine and audit all records relevant to execution and performance of the contract if required by law.
- B.10.2.** SHI is required to retain records relative to the contract for the duration of the contract and for a period of seven (7) years following completion and/or termination of the contract. If an audit, litigation, or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

B.11. Non-Appropriation Clause

The terms of this contract and any Purchase Order issued for multiple years under the contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other contract document, the procuring agency may terminate its obligations under the contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the contractor and shall be final and binding.

B.12. Choice of Law

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the contract shall be governed by the laws of the State of Oklahoma.

B.13. Choice of Venue

Venue for any action, claim, dispute, or litigation relating in any way to the contract shall be in Oklahoma County, Oklahoma.

B.14. Termination for Cause

- B.14.1.** SHI may terminate the contract for default or other just cause with both a 30-day written request and upon written approval from the State. The State may terminate the contract for default or any other just cause upon a 30-day written notification to the contractor.
- B.14.2.** The State may terminate the contract immediately, without a 30-day written notice to SHI, when violations are found, when conditions preclude the 30-day notice, or when the State determines that, an administrative error occurred prior to contract performance.
- B.14.3.** If the contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

B.15. Termination for Convenience

- B.15.1.** The State may terminate the contract, in whole or in part, for convenience if the State Purchasing Director or the State CIO determines that termination is in the State's best interest. The State shall terminate the contract by delivering to the contractor a Notice of Termination for Convenience specifying the terms and effective date of contract termination. The contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the State.
- B.15.2.** If the contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by SHI.

B.16. Insurance

SHI shall maintain and provide proof to the State of the following insurance during the term of this agreement:

- a) Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
- b) Commercial General Liability Insurance on a per occurrence basis with limits of liability not less than \$1,000,000 per occurrence and aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage.
- c) Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence combined single limit including Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- d) Professional Errors and Omissions Insurance shall include Consultant's Computer Errors and Omissions Coverage with limits not less than \$1,000,000 per claim and in the aggregate.

B.17. Employment Relationship

The contract does not create an employment relationship. Individuals performing services required by this solicitation or a resulting contract are not employees of the State of Oklahoma or the procuring agency. SHI employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to State employees.

B.18. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007

SHI certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (E-Verify) available at www.dhs.gov/E-Verify.

B.19. Compliance with Applicable Laws

The products and services supplied under the contract shall comply with all applicable Federal, State, and local laws and SHI shall maintain all applicable licenses and permit requirements.

B.20. Gratuities

The right of SHI to perform under this contract may be terminated, by written notice, if the Contracting Officer determines that SHI, or its agent or another representative offered or gave a gratuity (e.g., an entertainment or gift) to any State employee directly involved in this contract. Furthermore, a contractor convicted of such violation may also be suspended or debarred.

B.21. Mutual Responsibilities

The State and SHI agree that under this Agreement:

- B.21.1.** Neither party grants the other the right to use any trademarks, trade names, or other designations in any promotion or publication without express written consent by the other party.
- B.21.2.** This is a non-exclusive agreement and each party is free to enter into similar agreements with others.
- B.21.3.** Each party grants the other only the licenses and rights specified. No other licenses or rights (including licenses or rights under patents) are granted.
- B.21.4.** Where approval, acceptance, consent, or similar action by either party is required under this agreement, such action shall not be unreasonably delayed or withheld.

B.22. Confidentiality

- B.22.1.** Pursuant to Title 62 O. S. §34.12.(C.). "The Office of State Finance and all agencies of the executive branch of the State shall not be required to disclose, directly or indirectly, any information of a State agency which is declared to be confidential or privileged by State or Federal statute or the disclosure of which is restricted by agreement with the United States or one of its agencies, nor disclose information technology system details that may permit the access to confidential information or any information affecting personal security, personal identity, or physical security of State assets."

If required for the performance of this contract, the above information may be given to SHI after the contract is awarded in accordance with the requirements of this section.

- B.22.2.** SHI shall maintain strict physical security of all data and records entrusted to it. If certain functions are sub-contracted in accordance with the terms expressed herein, SHI shall insure that the sub-contractor maintains strict physical security of all data and records transmitted to the sub-contractor.
- B.22.3.** SHI shall never turn data or records over to a third party unless specifically authorized to do so by the DCS, the State's CIO, the State Agency Director, or in compliance with a valid court order.

B.23. Unauthorized Obligations

At no time during the performance of this contract shall SHI have the authority to obligate the State or the agency for payment of any goods or services over and above the awarded contract. If the need arises for goods or services over and above the contract for this project, contractor shall cease the project and contact agency for approval prior to proceeding.

B.24. Electronic and Information Technology Accessibility

Pursuant to Title 74, Section 85.7d. and OAC 580:16-7-56 electronic and information technology procurements, solicitations, agreements, and contracts shall comply with applicable Oklahoma Information Technology Accessibility Standards issued by the Oklahoma Office of State Finance.

EIT Standards may be found at www.ok.gov/DCS/Central_Purchasing/Index.html or http://www.ok.gov/OSF/documents/isd_its.doc.

1) For Information Technology or Communications Products, Systems and Applications not requiring development and/or customization. The contractor shall provide a description of conformance with the applicable Oklahoma Information Technology Accessibility Standards for the proposed product, system, or application by means of either a Voluntary Product Accessibility Template (VPAT) or other comparable document, upon request.

The contractor shall indemnify and hold harmless the State of Oklahoma and any Oklahoma Government entity purchasing the products, systems, or applications not requiring development and/or customized by the contractor from any claim arising out of the contractor's failure to comply with applicable Oklahoma Information Technology Accessibility Standards subsequent to providing certification of compliance to such Standards.

2) For Information Technology or Communications Products, Systems or Applications requiring development and/or customization. The contractor shall provide a description of conformance with the applicable Oklahoma Information Technology Accessibility Standards for the proposed product, system, or application developed and/or customized by means of either a Voluntary Product Accessibility Template (VPAT) or other comparable document, upon request. Additional requirements and documentation may be required and compliance shall be necessary on the contractor's part. Such requirements shall be stated in documents such as State Bids, Request for Proposals, Contracts, Agreements, Purchase Orders, and Amendments.

The contractor shall indemnify and hold harmless the State of Oklahoma and any Oklahoma Government entity purchasing the products, systems, or applications from the contractor, from any claim arising out of the contractor's failure to comply with applicable Oklahoma Information Technology Accessibility Standards subsequent to providing certification of compliance to such Standards. However, the contractor shall no longer have an obligation to indemnify the State for liability resulting from products, systems or applications developed and/or customized that are not in compliance with applicable Oklahoma Information Technology Accessibility Standards ("Standards") after the State has tested and confirmed that the product, system or application meets the accessibility requirements in the Standards.

The contractor and the State of Oklahoma agree that, although it is required to be included pursuant to 74 O.S. Section 85.7d, the accessibility clause set out above is inapplicable because the contractor is reselling a commercial off the shelf product (COTS) to which it has no legal rights of modification for compliance with said clause. Further, State of Oklahoma's use of said project is for a back office purpose as allowed by 62 O.S. Section 41.5t.

B.25. Patents and Copyrights

If in the performance of this contract, SHI uses any Product covered by a third party's patent or copyright, it is mutually agreed and understood without exception that the contractor's contract prices shall include all royalties or costs charged by the third party arising from the use of such patent or copyright. If such royalties or costs are not covered in the contractor contract price, contractor's obligations are as outlined immediately below.

B.25.1. If a third party claims that SHI intellectual property provided to Procuring Agency under this Agreement infringes that party's patent or copyright, SHI shall defend the State against that claim at contractor's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided the State: (i) promptly notifies the contractor in writing of the claim; and (ii) to the extent authorized by the Attorney General of the State of Oklahoma, allows SHI to control, and cooperates with SHI in, the defense and any related settlement negotiations; provided however, that if the Attorney General of the State of Oklahoma does not authorize SHI to have sole control of the defense and any related settlement negotiations, then to the extent allowed by Oklahoma law, SHI shall have no obligation to indemnify the State of Oklahoma under this Section.

If such a claim is made or appears likely to be made, the State agrees to permit SHI to enable the State to continue to use the intellectual property, or to modify it, or replace it with one that is at least functionally equivalent. If SHI determines that none of these alternatives is reasonably available, the State agrees to return the intellectual property to SHI upon written request.

If the State paid SHI for use of the intellectual property, SHI shall then give the State a refund equal to the net book value for the intellectual property, provided the State has followed applicable accounting principles. Net book value is the original cost of the intellectual property amortized over three (3) years using the straight-line accounting method of depreciation.

B.25.2. SHI has no obligation regarding any claim based on any of the following: (i) anything the State provides which is incorporated into SHI intellectual property; (ii) modification of any SHI intellectual property by any party other than contractor, contractor's representative or contractor's sub-contractor, or any State employee acting at the contractor's direction, or a program's use in other than its Specified Operating Environment; (iii) the combination, operation, or use of any SHI intellectual property with other products not provided by contractor as a system, or the combination, operation or use of SHI intellectual property with any product, data, or apparatus that contractor did not provide; or (iv) infringement by a Product alone.

B.26. Assignment

SHI's obligations under this contract may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of the State.

B.27. Severability

If any provision for this contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

B.28. Failure to Enforce

Failure by the State of Oklahoma at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the State of Oklahoma to enforce any provisions at any time in accordance with its terms.

B.29. Contract

The contract shall be for indefinite delivery and indefinite quantity for the products/services awarded.

B.30. Conflict of Interest

SHI must disclose any contractual relationship or any other relevant contact with any State personnel, or other State contractors involved in the development of this solicitation that result in a contract. Any conflict of interest shall, at the sole discretion of State, be grounds for termination of project involvement; provided that such termination must be made within a reasonable time after disclosure of such relationships or contacts.

In addition to any requirements of law or through a professional code of ethics or conduct, SHI and SHI's employees performing services for the State are required to disclose any outside activities or interests that conflict or may conflict with the best interests of the State. Further, such employees shall not plan, prepare, or engage in any activity that conflicts or may conflict with the best interests of the State of Oklahoma during the period of this agreement without prior written approval of the State. Prompt disclosure is required under this paragraph if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees, other third-party individuals, or entities holding contracts with the State.

B.31. Offshore Services

No offshore services are provided for under the resulting contract.

B.32. Failure to Provide

SHI's repeated failure to provide defined services, without reasonable basis as determined by the State of Oklahoma, shall constitute a material breach of SHI's obligations, which may result in cancellation of the contract.

B.33. Emerging Technologies

The State of Oklahoma reserves the right to modify the terms of this contract at any time to allow for technologies not identified elsewhere under this document. If there are repeated requests for an "emerging technology" and the State feels it is warranted to add such technologies, the State reserves the right to include such technology hereunder or to issue a formal modification or amendment to the contract.

B.34. Right to Renegotiate

Prior to exercising the State's right to cancel a contract, the State may renegotiate an existing contract with a contractor for the purpose of obtaining more favorable terms for the State, provided that the term of the contract is not modified.

B.35. Publicity

The award of this contract to contractor is not in any way an endorsement of SHI or SHI's services by the State and shall not be so construed by contractor in any advertising or publicity materials. SHI agrees to submit to the State all advertising, sales promotion, and other publicity matters relating to this contract wherein the State's name is mentioned or language used from which the connection of the State's name therewith may, in the State's judgment, be inferred or implied. SHI further agrees not to publish or use such advertising, sales promotion, or publicity matter without the prior written consent of the State. Nor shall contractor release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning this project without obtaining the prior written approval of the State.

B.36. Commercial Off-The-Shelf (Cots) Software

In the event that provider specifies additional terms and conditions or clauses that conflict with this contract in an electronic license agreement notice, the additional terms and conditions or conflicting clauses shall not be binding on the State of Oklahoma, and the provisions of this contract shall prevail. This does not affect a software publisher's end user license agreement ("EULA") which may be provided to the State as a click-through or shrinkwrap license.

B.37. Contractors and Sub-Contractors Obligations

- B.37.1.** SHI may use sub-contractors in support of this contract; however, SHI shall remain solely responsible for the performance of this contract.
- B.37.2.** All payments for products or services shall be made directly to SHI. If sub-contractors are to be used, the sub-contractors shall be identified in the Proposal and shall include the nature of the services to be performed. The State reserves the right to approve any and all sub-contractors providing services under this contract.
- B.37.3.** All contractor and sub-contractor changes after award, including changes of the actual employees performing services on this contract, are subject to approval by the State. No payments shall be made to SHI for services performed pursuant to this contract by unapproved employees of a sub-contractor.

B.37.4. SHI's employees or agents, if any, who perform services for the State under this agreement shall also be bound by the provisions of this agreement. At the request of the State, SHI shall provide adequate evidence that such persons are their employees or agents. In accordance with the section on "Employment Relationship", the State shall not be responsible to contractor's employees for any employee benefit or any obligation relating to employment, including health insurance benefits, workers' compensation insurance, paid vacation, or any other employee benefit.

B.38. Authorized Users

During the term of this contract, any government entities, as defined herein, may utilize this contract. The Oklahoma statutes state that counties, school districts, and municipalities of Oklahoma may avail themselves of the contract subject to the approval of SHI. For purposes of the operation of this contract, counties, school districts, and municipalities shall have the same benefits and responsibilities as a state agency. Under this contract, the State of Oklahoma bears no liability for the actions of counties, school districts and municipalities and the privities of contract exists solely between SHI and the county, school board or municipality.

B.39. Type of Contract

This shall be a mandatory statewide competitive contract(s) that is available to all State agencies. Other government entities may avail themselves of this contract.

As stated above, this contract is a mandatory statewide contract, which means all State agencies should use the contract for the services specified herein, unless the Ordering Agency has received a written exception from the contracting officer. The State of Oklahoma reserves the right to conduct separate procurement process' to establish contract(s) for the same or similar services for any agency's specific project.

B.40. Contractor Services

The State of Oklahoma shall not guarantee any minimum or maximum amount of SHI services that may be required under this contract.

B.41. Ordering

Any services to be furnished under this contract shall be ordered by the issuance of written purchase orders by the State agencies and authorized entities. There is no limit on the number that may be issued. Delivery to multiple destinations may be required. All orders are subject to the terms and conditions of this contract. Any purchase order dated prior to expiration of this contract shall be performed. In the event of conflict between a purchase order and this contract, the contract shall have precedence.

B.42. Acceptance

- B.42.1.** An Ordering Agency shall determine whether all products/services delivered meet SHI's published specifications. No payment shall be made for any products until the products have been accepted by the Procuring Agency.
- B.42.2.** Acceptance is automatic after 15 days of receipt of product unless the agency notifies SHI in writing prior to the 15-day time limit of non-acceptability of product.
- B.42.3.** Whenever an Ordering Agency does not accept any product and returns it to SHI, all related documentation furnished by SHI shall be returned also.
- B.42.4.** The manufacturer's standard warranties shall control which party bears the risk of loss or damage and shipping costs in the event an Ordering Agency does not accept any Product and returns it to SHI.
- B.42.5.** Items delivered not conforming to specifications may be rejected.
- B.42.6.** SHI may not make product substitutions.

B.43. Partial Shipments

In the event an Order is shipped incomplete (partial), the Ordering Agency must pay for each shipment as invoiced by the SHI unless the Ordering Agency has clearly specified "No Partial Shipments" on the Purchase Order. Ordering Agencies are not required to pay for partial shipments if products not shipped on the incomplete order required installation by the manufacturer prior to shipment.

B.44. Price Schedule Administration

- B.44.1.** SHI may change the price of any Product or Service at any time, based upon approved manufacturer price list price changes, or the price discount levels if a manufacturer changes SHI's discount structure, however the percentage of price discount levels change cannot be anymore then given by the manufacturer.
- B.44.2.** SHI may make Product model changes, add new Products, Product upgrades or Services to the PSS at any time and the pricing for the same shall incorporate, to the extent possible, similar or comparable price discount levels provided herein, as agreed by the parties.
- B.44.3.** SHI agrees to delete obsolete and discontinued Products from the PSS on a timely basis.
- B.44.4.** The PSS shall be maintained by SHI on an Internet web site with all changes posted to the Internet web site within five (5) working days of issuance of a change.

B.44.5. The cost of doing business may not be passed on to the State of Oklahoma.

B.44.6. Any price decrease effectuated during the contract period by reason of market change shall be passed onto the State of Oklahoma. No price reduction on a statewide contract may be offered to an agency unless that reduction is offered to all agencies.

B. 45 EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT AND/OR ANY ORDER ISSUED HEREUNDER, SHI HEREBY DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR ANY WARRANTY RELATING TO THIRD PARTY SERVICES. THE DISCLAIMER CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY WARRANTY PROVIDED BY A PRODUCT MANUFACTURER.

C. CONTRACT REQUIREMENTS

C.1. Administrative Fee

The Office of State Finance (OSF) imposes, and contractors agree to pay, a fee in the sum of ½ of 1% of the combined total quarterly expenditures under this contract. This fee amount is to be noted on the quarterly "Contract Usage Report" and paid by the contractor, to OSF within 30 calendar days from the completion of the quarterly reporting period stated under the section titled "Contract Usage Reporting".

The check should be mailed to:

a) Address:

Office of State Finance
Finance Unit
3812 N. Santa Fe
Suite 290
Oklahoma City, Oklahoma 73118-8500
Attention: CFO

b) Note: The checks for administrative fees are to have the following information on the check stub:

- Statewide contract #,
- Quarter and Year reporting,
- e.g. SW207 4th qtr, 2011

C.2. Contract Usage Reporting Requirements

The State requires quarterly reporting of acquisitions made against the resulting contract in two different formats. The exact reporting formats shall be provided to the contract awardees.

a) Contract Usage Reporting

Contractor shall provide quarterly usage reports, indicating the purchase order of the acquiring agency, the dollar amounts sold to all entities through this contract, plus grand totals, which include but are not limited to State Agencies, Counties, Cities, Schools, Hospitals, Municipalities, or political subdivisions. The contractors awarded this contract shall receive a "Sample Report" prior to the first quarter due date.

b) Item Detail Usage Reporting

Contractor shall provide quarterly item detailed usage reporting. The report format shall be provided to the contract(s) awardee; however, for informational purposes the report requirement shall include information like the following:

1. Purchasing agency/entity
2. Order date
3. Order #
4. Invoice #
5. Manufacturer #
6. Manufacturer
7. Description
8. Product Category
9. Standard Configuration #
10. Quantity
11. Unit List Price
12. Unit Oklahoma Price
13. Extended Price

C.2.1. Reporting Requirements

- a) Reports shall be submitted quarterly regardless of quantity.
- b) Usage Reports shall be delivered, by email to StatewideContractReports@osf.ok.gov within 30 calendar days upon completion of the quarterly reporting period cited below.

- c) Contract quarterly reporting periods shall be:
 - January 1 through March 31
 - April 1 through June 30
 - July 1 through September 30
 - October 1 through December 31

C.2.2. Failure to provide usage reports may result in cancellation or suspension of contract. It is the contractor's responsibility to notify the contracting officer of any delay in providing this report as defined.

C.3. Web Site Requirements

Manufacturer will provide a web page devoted to the awarded products for the State of Oklahoma Contract. The State of Oklahoma will provide an Internet link from their web page to the manufacturer's contract web page.

C.3.1. The basic web page for the State of Oklahoma contract will include the following:

- a) A listing of the contact personnel of the awarded vendor and the pertinent contact numbers.
- b) Vendor's ordering address
- c) Vendor's remittance address
- d) "How to Use" instruction for using their web site
- e) Pertinent contract information detailing the required State of Oklahoma contract numbers and applicable State of Oklahoma commodity codes.
- f) A complete product listing including retail price list with the applicable State of Oklahoma awarded pricing.
- g) A general category grouping of products available for ease in researching products.
- h) This general category grouping must have an expanding tree of information for the products available in that category. The web site must then have the capability to pick one of the general categories and go to a product specific page that details the information concerning that particular product.
- i) Printing a Quote Page. Once the end user has determined their needs, they will need a printable quote with quote number and/or quote date. The quote number/date must be valid for at least thirty (30) days to allow agencies time to process internal paperwork.

D. SIGNATURE BLOCK

IN WITNESS WHEREOF, the parties having read and understood the foregoing sections, expressly agree to these terms and conditions as evidence by their respective dated signatures below:

The signature below, by a duly authorized representative of SHI, acknowledges agreement to comply with the specification stated herein.

SHI International Corp.

Signature: Natalie Slowik

Printed Name: Natalie Slowik

Printed Title: Contract Specialist

Signature Date: 7/25/12

Oklahoma Office of State Finance

Signature: Alex Pettit

Printed Name: Alex Z Pettit

Printed Title: CIO

Signature Date: July 26, 2012