| Seal4 | Commonwealth of Massachusetts  The Executive Office of Technology Services and Security |
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**Commonwealth of Massachusetts – [Agency]**

**Request for Quotation RFQ [Agency] [FY#]-[XX]**

[RFQ Title]

**COMMBUYS BID NUMBER: XXXXX**

***[Month Day, 20xx]***

IN ACCORDANCE WITH M.G.L. C. 66 AND M.G.L. C. 4, § 7 (26), THIS RFQ AND ALL RESPONSES HERETO INCLUDING THE WINNING BID SHALL BECOME PUBLIC RECORD, AND CAN BE OBTAINED FROM THE EXECUTIVE OFFICE OF TECHNOLOGY SERVICES AND SECURITY BY SENDING AN EMAIL TO [[PUBLIC](mailto:MICHELLE.BURWELL@STATE.MA.US) RECORD COORDINATOR EMAIL]. ANY PORTIONS OF A RESPONSE THAT ARE LABELED AS CONFIDENTIAL WILL STILL BE CONSIDERED PUBLIC RECORD.

# General Procurement Information

## A. General Information

Purchasing Entity: Executive Office of Technology Services and Security (“EOTSS”) or (“Agency”)

Address: One Ashburton Place, Eighth Floor, Boston, MA 02108

Procurement Contact: [NAME, TITLE]

Telephone: [Phone # - 617-xxx-xxxx]

E-Mail Address: [Email]

RFQ File Number and Title: **EOTSS RFQ [FY#]-[XX]**

Attachments: Attachment A – COMMBUYS Instructions

Attachment B – Requirements Table

Attachment C – Cost Table

Attachment D – Cloud Terms Table

Attachment E – Statement of Work Template

Attachment F – Reseller Letter

This Request for Quotes (“RFQ”) does not commit the Commonwealth of Massachusetts (“Commonwealth”) or Agency to pay any costs incurred in the preparation of a Bidder’s response to this RFQ or to purchase any products or services. The Agency may: (i) accept or reject any and all bids received as a result of this RFQ; (ii) contract for some, all, or none of the products and services offered by Bidders in response to this RFQ; (iii) negotiate with one or more qualified Bidders; or (iv) cancel, in part or in its entirety, this RFQ if it is in the best interest of the Commonwealth to do so.

The Agency may amend this RFQ at any time prior to the date the responses are due. Any such amendment will be posted to the Commonwealth’s procurement website, CommBUYS (www.commbuys.com).

Bidders must submit their bids through the Commonwealth’s online procurement system, COMMBUYS, as detailed in Attachment A. Bidders are advised to check this site regularly, as this will be the sole method used for notification of changes.

## B. Eligible Bidders

This RFQ is restricted to vendors on the following Statewide Contracts:

ITS58 (Software and Services)

ITS64 (Oracle)

ITS55 (IBM)

ITS60 (Cloud Services) Category 1

Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Resellers under ITS58 are listed at: <https://www.commbuys.com/bso/external/purchaseorder/poSummary.sdo?docId=PO-15-1080-OSD01-OSD10-00000004888&releaseNbr=0&parentUrl=contract>

Resellers under ITS60 are listed at: <https://www.commbuys.com/bso/external/purchaseorder/poSummary.sdo?docId=PO-19-1080-OSD03-SRC01-17282&releaseNbr=0&parentUrl=contract>

If marked, a software or services provider who is not on a Statewide Contract listed above may submit a response to this RFQ. Such response must include: (i) a quote issued by a vendor on a Statewide Contracts noted above and (ii) a Reseller Letter (as attached hereto), if required under the applicable Statewide Contract.

**C. Event Calendar**

All times in this RFQ are in prevailing Eastern Time. Responses must be received no later than the response due date and time indicated below or they will not be evaluated. Bidders must have their responses fully loaded and accepted in COMMBUYS prior to the RFQ Response Due date and time listed below. Bidders are urged to allow sufficient time to upload their entire response.

| Procurement Step | Due Date | Time |
| --- | --- | --- |
| RFQ Posted |  |  |
| Bidder Questions Due |  |  |
| Commonwealth Responses posted to COMMBUYS (estimated date) |  |  |
| RFQ Response Due |  |  |
| Bidder Demonstrations Scheduled (estimated date) |  |  |
| Bidder Demonstrations (estimated date) |  |  |
| Commonwealth notice of Apparent Successful Bidder(s) posted (estimated date) |  |  |

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# Purchasing Entity

The Executive Office of Technology Services and Security is responsible for the provision of infrastructure services, development of IT policy, and implementation and oversight of all information technology investments for the Commonwealth and its respective agencies. In addition, EOTSS provides the processing and application programming services for many state departments using some of the most advanced hardware and software available.

# Description and Purpose of Procurement

**A. Background**

[Include background / reasons for purchase /etc.]

**B. Description of Software and Services**

The Agency is issuing this RFQ to purchase the following:

software: on-premises

software: cloud-based (software as a service)

services: setup / implementation / configuration

services: support and maintenance

services: training

other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Include high-level description of requested software and services, estimated number of users of the software and/or services, estimated frequency of use, etc.]

# Estimated Term

The estimated term of any contract entered into under this RFQ shall consist of an initial 36 month term and may be renewed or extended upon written agreement by the awarded Bidder and the Agency. The initial term and all renewals or extensions shall be referred to collectively as the “Term.”

# Warranties

Bidder shall provide all warranties listed below. Additional warranties may be agreed to in the contract resulting from this RFQ.

1. Bidder must provide all warranties required by the applicable Statewide Contract.

1. Bidder warrants that all software and services shall be provided in accordance with applicable State and Federal laws and in accordance with industry standards.
2. Bidder warrants that all personnel performing services shall act with due diligence and care and are qualified to perform such services in accordance with industry standards. Bidder warrants that it shall be responsible for the actions and omissions of all subcontractors and shall ensure all subcontractors’ compliance with the terms of an agreement resulting from this RFQ.
3. Bidder warrants that for a minimum of six (6) months (the “Warranty Period”) after the Agency accepts any software pursuant to Sections 1 and 2 of the Commonwealth’s Terms and Conditions, any software delivered by Bidder under this RFQ will substantially conform to the applicable Specifications. As used in this RFQ, “Specifications” means (i) the requirements for the software set forth in this RFQ, (ii) the software’s functional, performance, and interoperability requirements set forth in any agreement entered hereunder; (iii) the software functionality and description provided in Bidder’s response to this RFQ, and (iv) to the extent not inconsistent with the foregoing, the software publisher’s published specifications and documentation for the Software. If EOTSS discovers a non-conformity in the software during the Warranty Period, then the Bidder’s entire liability and EOTSS’ exclusive remedy shall be as follows: Bidder shall use commercially reasonable efforts, at its option, to (1) correct the non-conformity, (2) provide a work around or software patch (a “Fix”), or (3) replace the software. If Bidder is unable to remedy a non-conformity within a reasonable period of time, then EOTSS may terminate any agreement related to the software effective immediately upon written notice to Bidder. In this event, Bidder shall promptly pay to EOTSS an amount equivalent to all amounts paid by EOTSS for (i) software license fees (or SaaS equivalent) and (ii) maintenance and support services for the current year and (iii) all amounts already paid and not yet rendered or goods not yet delivered and accepted by EOTSS. Any replacement or error correction will not extend the original Warranty Period. During the Warranty Period, Bidder will not charge EOTSS for parts, labor or transportation.
4. Bidder warrants that all applicable agreements and terms will be provided in Bidder’s response. Bidder further warrants that the sale of the software and services, and the Commonwealth’s use of the software and services, will not be subject to any shrink-wrap, click-through, online terms, or similar agreements. Any terms or agreements that are not executed by the Agency will be void.
5. Bidder warrants that the software does not infringe on any existing intellectual property rights of any third party and that the Bidder has obtained all rights, grants, assignments, conveyances, licenses, permissions and authorizations necessary or incidental to any materials owned by third parties supplied or specified by it for incorporation into the software.
6. Bidder warrants that it has made commercially reasonable efforts to ensure that the licensed copy of the software provided to EOTSS does not contain any virus, Trojan horse, worm or other software routines or equipment components designed to permit unauthorized access, to disable, erase, or otherwise harm software, equipment, or data (“Unauthorized Code”).
7. Bidder warrants that it shall provide all necessary authorization codes necessary for successful installation of the software. Bidder also must also provide reauthorization codes to EOTSS should such codes be necessary for the software to remain functional during the Term.

# References

If marked, Bidder must describe three examples in which the proposed software has been deployed for a customer with a similar userbase and configuration as the Agency. Bidder must provide the name and contact information for an individual employed by the customer. Bidder agrees that the Agency or its agents may contact any individual(s) named as references hereunder. References must be submitted in the format specified on the OSD business reference form, which is available at <https://www.mass.gov/files/documents/2016/08/wd/business-reference-form_0.doc?_ga=2.94118429.1649001573.1581696382-994754224.1578681512>.

# Order of Precedence

The agreement resulting from this RFQ shall consist of the following documents in the following order of precedence:

(1) the Commonwealth’s Terms and Conditions;

(2) the Commonwealth’s Standard Contract Form;

(3) the applicable Statewide Contract RFR;

(4) the Bidder’s response thereto;

(5) this RFQ [RFQ NUMBER and RFQ NAME](including all amendments, and clarifications hereto);

(6) any agreement negotiated between and executed by the parties; and

(7) the Bidder’s response to this RFQ (including all amendments, clarifications, and best and final offers)

# Additional Requirements

**A. Enterprise Information Security Standards and Policies**

All software and services provided to the Commonwealth must comply with the Enterprise Information Security Standards and Policies (<https://www.mass.gov/handbook/enterprise-information-security-policies-and-standards>).

**B. Accessibility for IT Solutions Contract Language**

The Commonwealth is obligated to ensure non-discrimination and equal access to state services on the part of persons with a disability and reasonable accommodations to state employees with a disability. To effectively meet its responsibilities, the Commonwealth must achieve accessibility in the acquisition, deployment, and utilization of information technology. The Commonwealth defines accessibility to include compliance with its Enterprise Accessibility Standards and Web Accessibility Standards. These standards encompass the principles of Section 508 of the Federal Rehabilitation Act, the World Wide Web Consortium’s Web Content Authoring Guidelines, version 2, level AA (WCAG2 Standards), and the concept of usability for individuals with disabilities. Bidders must comply with the accessibility obligations detailed at <https://www.mass.gov/service-details/accessibility-for-it-solutions-contract-language>.

Bidders must include, at no additional cost and as part of their bid, licenses authorizing the Commonwealth personnel (including without limitation Agency personnel or its contractors) to test the software in accordance with the Enterprise Accessibility Standards, and for to test for interoperability with the specific AT and IT environments set forth in the AT/IT Environment List. The software must be available to the Commonwealth for evaluation prior to EOTSS purchasing the software and on an ongoing basis after the Agency has purchased the software.

**C. Contract Negotiation and Amendments**

The Agency may negotiate changes to the original performance measures, quantities, Term length, and requirements identified in this RFQ at any time, provided that such changes are consistent with the scope of this RFQ. The Agency may negotiate and execute contract amendments with the awarded Bidder(s) which the Agency reasonably determines are within the scope of this RFQ and necessary to result in best value to the Commonwealth.

**D. Promotional Materials**

Bidder must not reference the Agency or the Commonwealth in any promotional or marketing materials, including but not limited to use of the Agency’s or the Commonwealth’s name or logo, without first obtaining the Agency’s prior written approval for such use. Bidder must not use the Commonwealth’s seal in any promotional or marketing materials.

Bidders are discouraged from including extraneous promotional or marketing materials in their responses and excessive promotional or marketing materials may detract from the Bidders’ overall score.

**E. Pending Litigation**

Bidder must affirm that there is no pending litigation involving the Bidder, Provider, or the software and services provided in the response, that may impair or interfere with the Agency’s right to use the software or services. Bidder must warrant that there are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.

**F. Oral Presentations and Demonstrations**

In its discretion, the Agency may invite one or more Bidders whose responses have been judged competitive and responsive in the course of the evaluation to participate in a facilitated oral presentation, including a demonstration of the proposed software or services. The Agency may use these demonstrations and oral presentations to clarify aspects of the Bidder’s response or to inquire as to the Bidder’s approach, recommendations, and experience. The Agency may adjust its scoring of a prospective Bidder based on the Bidder’s performance during production demonstration and/or oral presentation.

The Agency reserves the right to apply restrictions to the structure and content of Bidder’s product demonstrations and oral presentations. Demonstrations and oral presentations shall not be open to the public nor to any competitors. The schedule of the demonstrations and oral presentations will be arranged directly with the Bidders selected by the Agency. Failure of a Bidder to agree to a date and time may result in rejection of the Bidder’s response.

Bidders must use publicly released products and operating systems in their demonstration. No pre-production products (e.g., “beta”) should be demonstrated. All Bidder-owned products used in the course of the demonstration must be listed and priced in the Cost Response (Attachment C).

**G. Review Rights**

Responses to this RFQ may be reviewed and evaluated by any person(s) at the discretion of the Agency including non-allied and independent consultants retained by the Agency for the sole purpose of evaluating and analyzing responses.

**H. Permitted Copies**

At no additional cost, Bidders must authorize the Agency to make, keep and retain a reasonable number of machine-readable copies of all core software components included in the Bidder’s software for testing, backup or archival purposes (the “Permitted Copies”).

At no additional cost, Bidders must include the Agency licenses to implement a second instance of all core software components included in the Bidder’s software for disaster recovery purposes. In the event of a disaster recovery scenario, Bidder must authorize the Agency to run such second instance without requiring any additional licenses or fees. Bidder must authorize the Agency to make the Permitted Copies available to personnel at its disaster recovery site(s) who require use of such software in order to assist the Agency with disaster recovery exercises.

**I. Escrow Agreement**

If marked, the Bidder must agree to place the software components offered by Bidder to the Agency in escrow. Bidder will enter into an escrow agreement with a nationally recognized escrow company satisfactory to the Agency. Bidder will provide the Agency with the escrow agreement for review prior to execution. The escrow agreement must contain terms substantially similar to the following:

1. The Bidder or software provider must deposit all readable source code, object (executable) code, and related documentation for the licensed software with the escrow agent.
2. The source code, object (executable) code, and related documentation must be held by the escrow agent in trust for the Agency.
3. The Bidder or software provider must include all maintenance releases and updates as they are issued during the Term in escrow.
4. The escrow agent will verify deposit of the source code, object (executable) code and related documentation, and all updates, and notify the Agency.
5. The Agency will be allowed to conduct periodic testing, at the Agency’s expense, of all source code held in escrow.
6. If the Bidder or software provider becomes insolvent, ceases to exist or do business in the ordinary course, or fails to perform its obligations under the contract entered by Bidder under this RFQ, the source code will be delivered to the Agency by the escrow agent.

# Bidder Responses

The following must be provided in each Bidder’s response:

1. A cover letter including Bidder’s relevant contact information and a statement that Bidder agrees to the terms of this RFQ.
2. A response to each Section (I – VII) of the RFQ in which Bidder identifies the means by which it shall comply with the terms in each Section.
3. A completed Requirements Table (Attachment B).
4. A completed Cost Table (Attachment C).
5. A Quote that can be used to issue a Purchase Order for the software and/or services. All submitted Quotes must be valid for a minimum of ninety (90) days from the date of receipt.
6. If Bidder is offering cloud software/services in its response, a completed Cloud Terms Table (Attachment D).
7. If Bidder is offering professional services in its response, include a full completed Tables within the SOW (Attachment E). The Commonwealth will not pay any costs and expenses not included in Bidder’s response. Bidder must include either a total fixed price cost for all Deliverables and Tasks, or a total not-to-exceed cost for all time and materials services. Bidder must also state an hourly rate for additional time and materials work.
8. All proposed professional services rates must include all costs and expenses, including without limitation delivery services, travel, and other costs and expenses.
9. Editable copies of all proposed licenses, support terms or other agreements requiring execution by EOTSS.
10. A Reseller Letter, if applicable.

# Evaluation Criteria

The responses to this RFQ will be evaluated based on the criteria listed below, in descending order of importance with the most important criteria listed first. The procurement management team may remove from further consideration non-responsive bids and bids that do not include all required items listed in Section VIII (Bidder Responses). Prior to such an exclusion, the Agency may request one or more clarification(s) from Bidder. A Bidder’s response may be excluded for failure to meet the Agency’s budgetary thresholds.

Any remaining responses will be evaluated based upon:

1. Fit to Requirements of the RFQ and Requirements Table (Attachment B)
2. Quality of product functionality
3. Ease of future administration and maintenance
4. Transparency/ease/effectiveness/level of software implementation and support
5. Experience of other customers and references.
6. Time for delivery
7. Price as provided in the Cost Table (Attachment C)

**ATTACHMENT A – COMMBUYS Instructions**

Interested Bidders must submit their response using COMMBUYS.

Useful links:

* Job aid on how to submit a quote: <http://www.mass.gov/anf/docs/osd/commbuys/create-a-quote.pdf>
* Webcast:  [How to Locate and Respond to a Bid in CommBuys](https://www.youtube.com/watch?v=IG7XDNk4-U0), which will familiarize bidders with CommBuys terminology, basic navigation, and provide guidance for locating bid opportunities in CommBuys and submitting an online quote.
* Bidders **MUST** have their complete bid fully loaded and submitted prior to the time and date listed in the calendar. COMMBUYS will not allow for bids to be submitted after the posted time.

Bidder may contact the CommBuys Help Desk at [CommBuys@state.ma.us](mailto:COMMBUYS@state.ma.us?Subject=COMMBUYS%20Question) or call during normal business hours (8AM – 5PM, Monday – Friday) at 1-888-627-8283 or 617-720-3197.

## Written questions via the Bid Q&A on COMMBUYS

The “Bid Q&A” provides the opportunity for Bidders to ask written questions and receive written answers from the Strategic Sourcing Team (SST) regarding this Bid.  All Bidders’ questions must be submitted through the Bid Q&A found on COMMBUYS (see below for instructions).  Questions may be asked only prior to the Deadline for Submission of Questions stated in the Procurement Calendar. The issuing department reserves the right not to respond to questions submitted after this date.  It is the Bidder’s responsibility to verify receipt of questions.

Please note that any questions submitted to the SST using any other medium (including those that are sent by mail, fax, email or voicemail, etc.) will not be answered.  To reduce the number of redundant or duplicate questions, Bidders are asked to review all questions previously submitted to determine whether the Bidder’s question has already been posted.

Bidders are responsible for entering content suitable for public viewing, since all of the questions are accessible to the public.  Bidders must not include any information that could be considered personal, security sensitive, inflammatory, incorrect, collusory, or otherwise objectionable, including information about the Bidder’s company or other companies.  The PMT reserves the right to edit or delete any submitted questions that raise any of these issues or that are not in the best interest of the Commonwealth or this Bid.

**All answers are final when posted.  Any subsequent revisions to previously provided answers will be dated.**

It is the responsibility of the prospective Bidder and awarded Bidder to maintain an active registration in COMMBUYS and to keep current the email address of the Bidder’s contact person and prospective contract manager, if awarded a contract, and to monitor that email inbox for communications from the Purchasing Department, including requests for clarification. The Purchasing Department and the Commonwealth assume no responsibility if a prospective Bidder’s/awarded Bidder’s designated email address is not current, or if technical problems, including those with the prospective Bidder’s/awarded Bidder’s computer, network or internet service provider (ISP) cause email communications sent to/from the prospective Bidder/Awarded Bidder and the Purchasing Department to be lost or rejected by any means including email or spam filtering.

## Locating Bid Q&A

Log into COMMBUYS, locate the Bid, acknowledge receipt of the Bid, and scroll down to the bottom of the Bid Header page.  The “Bid Q&A” button allows Bidders access to the Bid Q&A page.

**Attachment B – REQUIREMENTS TABLE**

Bidders may only propose product versions that are fully released for the open market by the RFQ response deadline.

B1 Software: On-premises or cloud-based

|  |  |  |
| --- | --- | --- |
| **To be completed by Agency** | | **To be completed by Bidder** |
| **Priority Level (Mandatory or Preferred)** | **Description or Functionality** | **Bidder’s Response** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

* All bids including cloud software/services must include a completed Cloud Terms Table (Attachment D).

B2 Services: Setup, Implementation, Configuration

|  |  |  |
| --- | --- | --- |
| **To be completed by Agency** | | **To be completed by Bidder** |
| **Priority Level (Mandatory or Preferred)** | **Description or Functionality** | **Bidder’s Response** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

B3 Services: Support and Maintenance

|  |  |  |
| --- | --- | --- |
| **To be completed by Agency** | | **To be completed by Bidder** |
| **Priority Level (Mandatory or Preferred)** | **Description or Functionality** | **Bidder’s Response** |
|  |  |  |
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* No support or maintenance fee increases will be permitted during the initial term. Bidder must hold support and maintenance rates fixed (no price increases) for a period of three years following the initial term. Thereafter, the costs of support and maintenance for each successive year will not increase more than [3%] of the costs of support and maintenance for the previous year.

B4: Services: Training

|  |  |  |
| --- | --- | --- |
| **To be completed by Agency** | | **To be completed by Bidder** |
| **Priority Level (Mandatory or Optional)** | **Description or Functionality** | **Bidder’s Response** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**ATTACHMENT C - COST RESPONSE**

The Cost Response listed below must be completed by Bidder and inclusive of any reseller markup. If the response is submitted through a reseller, the reseller must state its markup on each product and service.

B1: Software: On-Premises or Cloud Based

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Product Name** | **SKU Number** | **Price for Initial Term or Price Per User** | **Price for each renewal term** | **Additional Pricing Information or Volume Discounts** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

B2 Services: Setup, Implementation, Configuration

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Service Name** | **SKU Number** | **Fixed Price** | **Hourly Rate** | **Additional Pricing Information or Volume Discounts** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

B3 Services: Support and Maintenance

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Service Name** | **SKU Number** | **Fixed Price** | **Hourly Rate** | **Additional Pricing Information or Volume Discounts** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

B4: Services: Training

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Service Name** | **SKU Number** | **Fixed Price** | **Hourly Rate** | **Additional Pricing Information or Volume Discounts** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

Reseller Markup

|  |  |
| --- | --- |
| Bidder must identify the maximum mark-up under the applicable Statewide Contract: |  |
| Bidder must identify the proposed mark-up for this bid proposal, if lower: |  |

**ATTACHMENT D – CLOUD TERMS TABLE**

The following terms shall apply to cloud solutions purchased by the Commonwealth. Bidder must provide a response to each term or provide justification as to why a term is not applicable to the offered cloud solution. These terms shall supplement any terms provided by the cloud solution provider and may be negotiated between EOTSS and the awarded Bidder.

|  |  |  |
| --- | --- | --- |
| **Category** | **Requirement** | **Bidder’s Response** |
| Support and Training | Technical support must be provided via online helpdesk and toll-free phone number, during Business Hours (Monday through Friday from 8:00 a.m. to 6:00 p.m. Eastern Time) and 24x7x365. |  |
| Service Level | Bidder must provide a Service Level Agreement (SLA) which includes (1) guaranteed uptime percentage or at least 99.00% and (2) definition of uptime and how it is calculated |  |
| Service Level | Scheduled maintenance must be limited to ten (10) hours per month. Downtime must include the sum or unscheduled maintenance and scheduled maintenance if they exceed ten hours per month, combined. |  |
| Service Level | Scheduled maintenance must occur with at least two (2) business days’ advance notice, at agreed-upon times, and in no event during Business Hours. |  |
| Service Level | The SLA must include: (1) response and resolution times, (2) multiple levels of defect classifications, and (3) other applicable metrics based on industry standards. |  |
| Remedies | The SLA must include remedies for failure to meet guaranteed uptime, response and resolution time, and other metrics. Remedies may include fee reductions, credits, and extensions in service period at no cost. |  |
| Remedies | Repeated or consistent failures to meet SLA metrics may result in (1) a refund of all fees paid by Customer for the period in which failure occurred and (2) participation by the solution provider in a root cause analysis and corrective action plan at Customer’s request. |  |
| Remedies | If uptime is less than 98.0% three times during the Term, Customer may terminate the subscription and receive a pro-rated refund of all prepaid fees. |  |
| Reports | Customer will be provided with a written report of performance metrics, including uptime percentage and service support requests, classifications, and response and resolution times, as requested by Customer. Customer may independently audit the report at Customer’s expense. |  |
| Reports | Solution provider and Customer shall meet as often as reasonably requested by either party to review the performance of the cloud software/services. |  |
| Reports | Solution provider will provide to Customer regular status reports during unscheduled downtime, at least once per day or upon Customer’s request. |  |
| Reports | Solution provider will provide Customer with root cause analysis within thirty (30) days of unscheduled downtime. |  |
| Changes | Solution provider may not change the cloud software/services in any manner that adversely affects Customer or degrades the service levels applicable to Customer without Customer’s written approval. |  |
| Updates and upgrades | Solution provider will make updates and upgrades available to Customer at no additional cost when solution provider makes such updates and upgrades generally available to its users. |  |
| Updates and upgrades | Solution provider will notify Customer at least sixty (60) days in advance prior to any major update or upgrade. |  |
| Updates and upgrades | Solution Provider will notify Customer at least five (5) business days in advance prior to any minor update or upgrade, including hotfixes and installation of service packs, except in the case of an emergency such as a security breach. |  |
| Updates and upgrades | No update, upgrade, or other change to the cloud software/services may decrease the cloud service’s functionality; materially, adversely affect Customer’s use of, or access to, the cloud software/services; or increase the cost of the cloud software/services to Customer. |  |
| Customer Data | Customer retains full right and title to data provided by Customer and any data derived therefrom, including metadata (collectively, the “Customer Data”). |  |
| Customer Data | Solution provider shall not collect, access, or use user-specific Customer Data except as strictly necessary to provide the software and services to Customer. No information regarding Customer’s use of the cloud software/services may be disclosed, provided, rented or sold to any third party for any reason unless required by law. |  |
| Customer Data | Solution provider shall not use any information collected in connection with the agreement, including the Customer Data, for any purpose other than fulfilling its obligations under the agreement. |  |
| Customer Data | Customer Data must remain within the continental United States. Solution provider must disclose to Customer the identity of any third-party host of Customer Data. |  |
| Customer Data | Customer may export the Customer Data at any time during the Term or for up to three (3) months after the Term in an agreed-upon file format and medium. |  |
| Customer Data | Three (3) months after the termination or expiration of the Term or upon Customer’s earlier written request, solution provider shall at its own expense destroy and erase all Customer Data and Customer’s Confidential Information, unless otherwise required by law. Solution provider shall, upon request, send a written certification to Customer certifying that it has destroyed the Customer Data and Confidential Information in compliance with this section. |  |
| Data Privacy and Security | Solution provider must comply with all applicable laws related to data privacy and security. |  |
| Data Privacy and Security | Solution provider shall not access Customer user accounts, or Customer Data, except in the course of data center operations, response to service or technical issues, as required by the express terms of the agreement, or at Customer’s written request. |  |
| Data Privacy and Security | Solution provider may not share Customer Data with its parent company, other affiliate, or any other third party without Customer’s express written consent. |  |
| Data Privacy and Security | Prior to contract execution, solution provider and Customer must identify whether the solution provider or the cloud software/services will access sensitive data, including without limitation:  Personal data under M.G.L. c. 66A  Personal information under M. G. L. c. 93H and 201 CMR 17.00  Personal Health Information under the Health Insurance Portability and Accountability Act of 1996  Records under the Federal Education Rights and Privacy Act of 1974  Federal Tax Information under IRS Pub. 1075  Criminal Justice Information  Criminal Offender Record Information  If solution provider or cloud software/services will store, use, access, or obtain potential access to, sensitive data, solution provider and Customer must document any additional specifications and/or requirements pertaining to the cloud software/services. |  |
| Data Privacy and Security | Solution provider shall provide a secure environment for Customer Data, and any hardware and software, including servers, network and data components provided by solution provider as part of its performance, in order to protect, and prevent unauthorized access to and use or modification of, the cloud software/services and Customer Data. |  |
| Data Privacy and Security | Solution Provider will encrypt personal and non-public Customer Data in transit and at rest. |  |
| Data Privacy and Security | Customer Data must be partitioned from other data in such a manner that access to it will not be impacted or forfeited due to e-discovery, search and seizure or other actions by third parties obtaining or attempting to obtain solution provider’s records, information or data for reasons or activities that are not directly related to Customer’s business. |  |
| Data Privacy and Security | In the event of any breach of security that adversely affects Customer Data or solution provider’s obligations, or any evidence that leads solution provider to believe that such a breach is imminent, solution provider shall promptly (and in no event more than twenty-four hours after discovering such breach) notify Customer. Solution provider shall identify the affected Customer Data and inform Customer of the actions it is taking or will take to reduce the risk of further loss to Customer. Solution provider shall provide Customer the opportunity to participate in the investigation of the breach and to exercise control over reporting the unauthorized disclosure, to the extent permitted by law. |  |
| Data Privacy and Security | If sensitive data is compromised, solution provider shall be responsible for providing breach notification to data owners in coordination with Customer and the Commonwealth as required by M.G.L. ch. 93H or other applicable law or Commonwealth policy. |  |
| Data Privacy and Security | Solution provider shall indemnify, defend, and hold Customer harmless from and against any and all fines, criminal or civil penalties, judgments, damages and assessments, including reasonable expenses suffered by, accrued against, charged to or recoverable from the Commonwealth, on account of the failure of solution provider to perform its “Data Privacy and Security” obligations. |  |
| Disaster Recovery | Solution provider will maintain and follow a disaster recovery plan designed to maintain Customer access to the cloud software/services, and to prevent the unintended destruction or loss of Customer Data. In no event shall the cloud software/services be unavailable for a period in excess of twenty-four (24) hours. |  |
| Disaster Recovery | Solution provider shall review and test the disaster recovery plan regularly, at minimum twice annually. Solution provider shall back up Customer Data in an off-site “hardened” facility located within the continental United States. In the event of service failure, solution provider shall be able to restore the cloud software/services, including Customer Data, with loss of no more than twelve (12) hours of Customer Data and transactions prior to failure. |  |
| Records and Audit | Solution provider shall maintain accurate, reasonably detailed records pertaining to: (1) substantiation of claims for payment, (2) service levels, including service availability and downtime. |  |
| Records and Audit | Solution provider shall keep such records for a minimum of seven (7) years from the date of creation. |  |
| Records and Audit | Customer or its designated agent shall have the right, upon reasonable notice to solution provider, to audit, review, and copy all records collected by solution provider that may reasonably relate to Customer’s use of the cloud software/services. Such records will be made available to Customer or Customer’s agent at no cost to Customer. |  |
| Transition Assistance | Solution provider shall reasonably cooperate with Customer and other parties in connection with all cloud software/services to be delivered under the agreement. Solution provider shall assist Customer in exporting and extracting the Customer Data, in a format usable without the use of the cloud software/services and as agreed to by Customer. |  |
| Transition Assistance | If Customer determines that a documented transition plan is necessary, solution provider shall reasonably cooperate with Customer to document such transition plan no later than sixty (60 ) days prior to termination. |  |

**ATTACHMENT E - STATEMENT OF WORK TEMPLATE**

**ATTACHMENT F – RESELLER LETTER**