Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

The following are the exceptions which were submitted by AT&T Mobility in response to the State of Arizona's solicitation ADSPO14-00004241. Any exceptions not addressed by the State in this document were not considered and shall be deemed not accepted by the State and shall not become a part of any resultant contract.

All accepted exceptions shall be incorporated within in applicable sections of a resultant contract. Approved exceptions shall override the original RFP language, unless the acceptance was only clarification.

1) Solicitation section reference: Scope of Work

2. BACKGROUND

The State currently holds nine (9) contracts for Telecommunication Carrier Services. Within these contracts a customer is able to obtain carrier services through a limited technology base. It is the intent of the State to widen the technologies and related services that are available for purchase by all eligible State customers from both traditional telecommunication carriers as well as broadband service providers to better serve the State of Arizona as a whole. This contract will be utilized by two specific customer bases:

Primary Customers: Defined as all State Agencies, Boards and Commissions. These customers are required to be compliant with A ZNet standards. The executive branch of the State has outsourced the management of its telecommunications infrastructure from a fragmented agency-centric model to a new enterprise network. Under this structure the State government has consolidated the purchasing power of all Executive Branch Agencies. At the direction of the State, AZNet has aggregated executive branch purchasing across the State.

Other Customers: Defined as customers who have membership in the State Purchasing Cooperative (specifically, all Arizona political subdivisions including, counties, cities, school districts and special districts.) Membership is also available to all non-profit organizations, as well as State governments, the US Federal Government and Tribal Nations or any other consortium of entities eligible to purchase under this contract.

AT&T Exception:
~~AT&T is certainly willing to entertain the opportunity to provision to other entities. However, AT&T would need to know information including, but not limited to, which entities were being considered, how the billing and collection would work (e.g., who would ultimately be responsible for payment), any credit issues, and what services were involved. Once AT&T understood the details, AT&T would consider this opportunity.~~

State Response: Unacceptable. All billing, collection services involved are described within the solicitation documents.

AT&T Revised Response: AT&T would limit the Other Customers to political entities and eligible not-for-profit organizations in the State of Arizona.

State's Final Response: Accepted as Clarification. No change to the original RFP language required.

2) Solicitation section reference: Scope of Work

6.1.3 Consortia / Group Buying. Eligible 'Other Customers', as defined in Section 2, Background, are allowed to create new consortia with or without the participation of Primary Customers, also defined in Section 2, Background, to increase their buying power for services and to enhance the likelihood of new infrastructure investments being made by Carriers and Broadband Providers.

AT&T Exception:
~~AT&T is certainly willing to entertain the opportunity to provision to other entities. However, AT&T would need to know information including, but not limited to, which entities were being considered, how the billing and collection would work (e.g., who would ultimately be responsible for payment), any credit issues, and what services were involved. Once AT&T understood the details, AT&T would consider this opportunity~~

State Response: Unacceptable. All billing, collection services involved are described within the solicitation documents.

AT&T Revised Response: AT&T would limit the Other Customers to political entities and eligible not-for-profit organizations in the State of Arizona.

State's Final Response: Accepted as Clarification. No change to the original RFP language required.

3) Solicitation section reference: Scope of Work

7. SERVICE LEVEL GUARANTEES
7.1 Service Level Agreements (SLAs)
7.1.1 SLAs are required when establishing service for applicable products.
7.1.2 The customer shall negotiate SLAs directly with the carriers and providers when establishing requested service.

AT&T Exception:
~~In response to Section 7 and all subsections thereto, AT&T is bidding its standard Service Level Agreements (SLAs) for its products and services which are available for review at http://www.att.com/gen/public-affairs?pid=11970039~~

State Response: Unacceptable, web address is invalid.

AT&T Revised Response: In response to Section 7 and all subsections thereto, AT&T is bidding its standard Service Level Agreements (SLAs) for its products and services which are available for review at: http://serviceguidenew.att.com/ Please select the appropriate service, then navigate

to the Service Level Agreement section of that Service Guide.

State's Final Response: Exception is Unaccepted. SLA's are to be negotiated directly by the customer as stated in SOW 7.1.2.

4) Solicitation section reference: Scope of Work

7.2.5 Restore and Response tracking:

7.2.5.1 The two (2) or four (4) hour window shall start when the customer (AZNet, for the primary customer) calls the carrier directly and opens a repair ticket.

7.2.5.2 Once the service has been fully restored, the carrier shall call the customer and notify of completion.

7.2.5.3 Once notified the customer shall confirm that service has been fully restored before the carrier closes the open repair ticket. Once this confirmation has been completed the window for restoration shall be closed and calculated for any applicable penalties.

7.2.5.3.1 If the carrier or provider closes the repair ticket before confirmation has been provided by the customer and is required to open a new ticket, the restoration and response time shall not be restarted, rather merged with the original outage notification.

AT&T Exception:
~~As set forth above, AT&T's proposal, and all pricing contained therein, is in accordance with the Proposed Contract Documents serving as the underlying agreement between AT&T and the Customer. Service Levels for all Services proposed herein can be found at att.com/servicepublications.~~

State Response: Exception does not modify or alter solicitation language

AT&T Revised Response: Trouble-reporting standards and any associated Service Level Agreements and penalties shall be as per our Service Guides which can be found at http://serviceguidenew.att.com/.

State's Final Response: Exception is Unaccepted. SLA's are to be negotiated directly by the customer as stated in SOW 7.1.2. AT&T withdrew Exception 1/27/15.

5) Solicitation section reference: Scope of Work

8.2.2 Ordering Process.

8.2.2.1 Purchase Order Issued. Purchase Orders shall be in accordance with the requirements set forth herein.

AT&T Exception:
~~Should the parties agree that the method of purchase for any products/services provided under this RFP shall be via Customer's purchase order, such purchase orders must clearly provide that the purchase is made pursuant to the mutually agreed contract documents and is not subject to the preprinted terms of that purchase order form.~~

State Response: Exception is not applicable.

AT&T Revised Response: AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

6) Solicitation section reference: Scope of Work

8.2.2.5 Order Implementation. Contractor shall be responsible for and shall minimize the impact of any transition between the Customer's incumbent service providers and the Contractor. Contractor shall inform the Customer of all Customer responsibilities throughout service implementation. In general, Order implementation shall not exceed ninety (90) days but shorter or longer timeframes may be negotiated between the Customer and the Contractor on a case by case basis. Contractor shall be responsible for all billing variations incurred during an unsuccessful service implementation. For example, new rates are not applied correctly or telephone numbers are not recognized in database, etc.

AT&T Exception:
~~Because this solicitation requests multiple products and services, AT&T will endeavor to meet but cannot contractually commit to an implementation of 90 days or less. AT&T will install, implement and cutover the system components called for in the agreed specifications as outlined in the Proposed Contract Documents and in a manner mutually agreed to by the parties.~~

State Response: Exception is not applicable, see highlighted section reference above

AT&T Revised Response: AT&T withdraws this exception and will rely on case-by-case basis for implementation of specific services, especially any which may require special construction.

State's Final Response: Exception withdrawn by AT&T, clarification language to remain in exceptions document, however contract language remains unchanged within Scope of Work.

7) Solicitation section reference: Scope of Work

8.3 Additional Provisions regarding Service Establishment for both Primary and Other customers:

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

8.3.1 Major Service Implementations:

8.3.1.1 Inspection of all Major Services Implementations. A Major Services Implementation is defined as any Customers with ten (10) or more locations and / or ten (10) or more PVC's. Customer may appoint an Inspector(s) from time to time to serve as Customer's representative during, installation, testing, cutover, operation and maintenance of the Services (and its billing) and shall advise Contractor of same. Such inspection may extend to any part of the installation or operation of the Services. The Inspector shall not be permitted to modify in any way the provisions of the Contract, nor to delay the work by failing to complete the inspection with reasonable promptness. The Inspector shall not interfere with the Contractor's management of the work. Instructions given by the Inspector shall be respected and responded to by Contractor. Whenever required by the Inspector, Contractor shall furnish without additional charge, all tools, test equipment, and labor necessary to make an examination of the work completed or in progress or test the quality of the Services. If the Services, including its installation and operation, is found to be not in compliance with the Specifications, Contractor shall bear all expenses of such examination and of satisfactory correction of the deficiencies. After all Service installation and testing activities are completed, and upon delivery of all required Service and testing documentation, Final Services Acceptance (FCA) shall be executed.

8.3.1.2 Acceptance Testing of all Major Services Implementation. Upon notification of completion of Contractor testing, Customer shall commence its Acceptance Testing Period of 30 calendar days for compliance with Services performance requirements. In the event of apparent failure to meet any performance requirements or standards during any Acceptance Testing Period, it is not required that one 30-day period expire in order for another Acceptance Testing Period to begin. Furthermore, if, during any Acceptance Testing Period, Customer identifies Service Affecting deficiencies, it shall be at Customer's option if another 30-day Acceptance Testing Period is required after Contractor satisfactorily corrects such deficiencies. Customer's standard of performance shall be met when the Services operates in conformance with the SLA requirements during its operational-use-time for a period of 30 consecutive calendar days from the commencement date of the Performance Period. If Customer identifies Service Affecting deficiencies, during the Performance Period, Customer shall promptly notify Contractor in writing of such deficiencies. Contractor shall correct these deficiencies in a timely and satisfactory manner and shall notify Customer in writing when deficiencies are corrected. Customer shall make every effort to assist Contractor in the resolution of all deficiencies but the responsibility ultimately resides with Contractor. Promptly upon successful completion of the Performance Period, Customer may notify Contractor in writing that the Performance Period is now complete. Contractor's receipt of Customer's letter shall prompt the execution of the Final Services Acceptance Document. If the Performance Period Acceptance Testing is not completed within 90 calendar days of the Contractor's CSO Initiation date, Customer shall have the option of terminating the CSO, without penalty or of authorizing Contractor in writing of an extension of the Performance Period deadline. Customer's option to terminate the CSO shall remain in effect until such time as successful completion of the service performance requirements is attained.

AT&T Exception:
~~For clarification, and in response to Section 8.3 above and all subsections thereto, AT&T will provide services and, as appropriate, install, implement and cutover the system components called for in the agreed specifications for final acceptance by the State. The services and components provided will operate in accordance with the manufacturer's specifications, the RFP specifications as responded to by AT&T and the agreement of the parties. When the work and components specified in this Response complete manufacturer-recommended test protocols, acceptance occurs.~~

~~All other terms and conditions relating to inspection and acceptance shall be as set forth in the Proposed Contract Documents.~~

State Response: Clarification does not add, delete or modify any requirements as stated in solicitation.

AT&T Revised Response:
AT&T does not offer a standard acceptance period for a Services Implementation. Upon completion of a Service Order, the services and components provided will operate in accordance with the manufacturer's specifications, the RFP specifications as responded to by AT&T and the agreement of the parties, and billing will commence.

State's Final Response: Exception is Unaccepted. The state accepts the following clarification: AT&T would like the ability to negotiate testing requirements and time periods based on the complexity of the major service implantation.

8) Solicitation section reference: Scope of Work

8.3.2 Order Modifications and Cancellations:

8.3.2.1 Modifications or Cancellations prior to Order Acceptance:
Customer may, at any time prior to Order acceptance, modify or cancel the Order, in whole, or in part. Customer shall have no liability for making such modifications or cancellations.

8.3.2.2 Modifications or Cancellations after Order Acceptance: Customer may modify or cancel an Order after Order acceptance. Contractors may modify Orders as authorized by the Customer. Modifications or cancellations shall be executed in writing or electronically. Any unauthorized modification or cancellation by Contractor shall constitute a material breach of the Contract and, at the Customer's option, cause the Order to be void. Customer liability for modifications or cancellation made after Offer acceptance shall be limited to the full cost of all non-recoverable expenses, including any special construction charges, caused by the modification, not to exceed the non-recurring costs for products and services in the Order. Customers may cancel an Order due to Contractor's failure to perform in accordance with the Order notification, and/or the service level agreements contained in the Contract. Cancellation for Contractor default shall limit Customer liability to the reoccurring and non-reoccurring costs already accepted and in use by Customer.

AT&T Exception:
~~Cancellation of an Order by Customer will result in Customer being charged a cancellation fee that will depend on the phase of the implementation process that the order has reached. All terms and conditions relating to termination and cancellation shall be as set forth in the Proposed Contract Documents, in particular the Pricing Schedules and Section 8 ("Suspension and Termination") of the Unified Agreement and all subsections~~

~~thereto.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:
AT&T would define Order Acceptance as being the point at which a customer request for service is entered into an AT&T ordering system. Based on this definition, AT&T would accept 8.3.2.1.

AT&T would replace 8.3.2.2 with the following:
After an order is entered into an AT&T ordering system, if the State or AT&T terminates a Service or Service Component prior to Cutover other than as set forth below, the State (i) will pay any pre-Cutover termination or cancellation charges set out in a Pricing Schedule or Service Publication, or (ii) in the absence of such specified charges, will reimburse AT&T for time and materials incurred prior to the effective date of termination, plus any third party charges resulting from the termination.

If the State terminates this Agreement or an affected Service or Service Component for cause in accordance with the Agreement or if AT&T terminates a Service or Service Component other than for cause, the State will not be liable for the termination charges set forth in this Section.

State's Final Response: The State accepts the proposed language for 8.3.2.2, however 'reasonable and customary' shall be inserted prior to 'time and materials incurred'.

9) Solicitation section reference: Scope of Work

9.1.2 Issue and Problem Resolution. When an issue or problem requires notice and mitigation steps by the parties, the State and Contractor shall follow the same Dispute Resolution process as set forth herein. Depending on the severity of the issue or problem, the State may at its discretion, bypass the Dispute Resolution process herein and precede directly to the Remedies provisions of the Contract.

AT&T Exception:
AT&T requests that either party shall have the discretion to bypass the Dispute Resolution process that is set forth herein and as it is amended by AT&T's responses thereto.

State Response: Unacceptable, the State is not accepting changes to these requirements

AT&T Revised Response:
Based on the State's response and absent any compelling reason, AT&T would suggest that we strike the second sentence in this Section so that both Parties must first follow the Dispute Resolution process for any issue or problem. AT&T fails to see why we should not be given an opportunity to correct any problem or issue irrespective of its severity.

State's Final Response: Exception is Unaccepted. The State is required to follow Uniform Terms and Conditions section 8.

10) Solicitation section reference: Scope of Work

9.2 Broadband Expansion Management.

9.2.1 Annual and Semi-annual Meetings. Contractor shall, at least once annually and more frequently as required by the State, meet with the Procurement Officer and/or members of delegated representatives of the State's ASET-Broadband department, to review Contractor performance against the terms, conditions and requirements of the Contract. Reviewing progress on plans of expansion originally submitted.

9.2.2 Service Maps. Contractors shall provide maps of their current and planned broadband infrastructure in KMZ or an equivalent digital format for counties in which they intend to offer services under this contract, such maps need to include physical layer fiber routes, including long haul, middle mile and last mile segments; points-of-presence, interconnection/peering points, central offices, and data centers; other access points such as: manholes, splice points, etc. Direct information with regard to served customers need not be included. These maps are to be updated on a semi-annual basis and submitted to the State Procurement Office.

AT&T Exception:
~~If AT&T is selected as your provider of choice under this RFP, AT&T will be happy to discuss this issue; but our network maps are confidential and proprietary information. Because of both security and confidentiality concerns, we are not able to share this information at this time.~~

State Response: Acceptable, with the exception that this will be subject to an NDA that must be executed prior to award.

AT&T's Response:
AT&T will agree to a mutually-acceptable NDA.

State's Final Response: Exception is Unaccepted, as it is not an exception. This issue was addressed via a Determination of Confidentiality which deemed the Services maps as confidential information.

11) Solicitation section reference: Scope of Work

9.2.3 Issue and Problem Resolution. When an issue or problem requires notice and mitigation steps by the parties, the State and Contractor shall follow the same Dispute Resolution process as set forth herein. Depending on the severity of the issue or problem, the State may at

its discretion, bypass the Dispute Resolution process herein and precede directly to the Remedies provisions of the Contract.

AT&T Exception:
~~AT&T requests that either party shall have the discretion to bypass the Dispute Resolution process that is set forth herein and as it is amended by AT&T's responses thereto.~~

State Response: Unacceptable, the State is not accepting changes to these requirements

AT&T Revised Response:
Based on the State's response and absent any compelling reason, AT&T would suggest that we strike the second sentence in this Section so that both Parties must first follow the Dispute Resolution process for any issue or problem. AT&T fails to see why we should not be given an opportunity to correct any problem or issue irrespective of its severity.

State's Final Response: Exception is Unaccepted. The State is required to follow Uniform Terms and Conditions section 8.

12) Solicitation section reference: Special Terms and Conditions

AT&T Exception:
With regard to the Special Terms and Conditions, and as stated in AT&T's Responses above, AT&T is submitting its proposal pursuant to the terms and conditions of its Proposed Contract Documents and not those set forth within this RFP.

That said, while submission of this proposal does not obligate either party to enter a contract of any kind, upon being selected as your vendor under this RFP, AT&T will work cooperatively to negotiate provisions required for compliance with the RFP as responded to by AT&T. The pricing submitted in the Response assumes the use of the Proposed Contract Documents as part of any final, negotiated contract. Additionally, any purchase orders issued for services as provided under this RFP must clearly provide that the purchase is made via the mutually agreed contract and not subject to the preprinted terms of that purchase order form.

State Response: Unacceptable

AT&T Revised Response:
With regard to the Special Terms and Conditions, AT&T is submitting its proposal pursuant to the Exceptions set forth below.

State's Final Response: This is not an exception, rather a statement. Once mutual agreement is made we will have an exceptions document which states which exceptions have been agreed to, withdrawn or accepted as clarification. As this is not an exception, the State still responds as this is not acceptable language. AT&T shall withdraw pending completed negotiations.

13) Solicitation section reference: Special Terms and Conditions

4. ELIGIBLE AGENCIES (Statewide)
This Contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible State Purchasing Cooperative members may participate at their discretion. In order to participate in this contract, a cooperative member shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statues § 41-2632.

Membership in the State Purchasing Cooperative is available to all Arizona political subdivisions including cities, counties, school districts, and special districts. Membership is also available to all non-profit organizations, as well as State governments, the US Federal Government and Tribal Nations. Non-profit organizations are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the internal revenue service under section 501(c)(3) through 501(c)(6).

AT&T Exception:
~~AT&T is certainly willing to entertain the opportunity to provision to other entities. However, AT&T would need to know information including, but not limited to, which entities were being considered, how the billing and collection would work (e.g., who would ultimately be responsible for payment), any credit issues, and what services were involved. Once AT&T understood the details, AT&T would consider this opportunity~~

State Response: Unacceptable. All billing, collection services involved are described within the solicitation documents.

AT&T Revised Response:
AT&T would limit the Other Customers to political entities and eligible not-for-profit organizations in the State of Arizona.

State's Final Response: Accepted as Clarification. No change to the original RFP language required.

14) Solicitation section reference: Special Terms and Conditions

7. LICENSES
The Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of a business conducted by the Contractor.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

AT&T Exception:
~~AT&T will be responsible for obtaining licenses and permits required for its work at its cost, and the State will be responsible for obtaining any easements, rights-of-way or other consents required, at its cost.~~

State Response: Unacceptable, the Contractor will be responsible for all costs to obtain easements, rights-of-way and consents in order to complete services under an awarded contract

AT&T Revised Response:
AT&T withdraws this exception, but notes that the State is responsible for obtaining all rights to access and/or use private property at its locations.

State's Final Response: Exception withdrawn by AT&T, clarification language to remain in exceptions document, however contract language remains unchanged within this section.

15) Solicitation section reference: Special Terms and Conditions

8. SUBCONTRACTORS
Supplemental to the Subcontractor term in the Uniform Terms and Conditions, Contractor shall not enter into any Subcontract under this Contract, for the provision of supplies or performance of services under this Contract, without the advance written approval, by way of bilateral contract amendment, of the State Procurement Office. When requesting the Procurement Officer's approval, the Contractor shall list all new subcontractors, their contact information, certifications required of them, their Minority and Women Owned Enterprise status (cite any certifications use in determining such status) as well as the subcontractor's proposed responsibilities under the Contract. The Subcontractor's most current certificate of insurance shall be provided at this time as well. With the request, Contractor shall certify that all Subcontracts incorporate by reference the terms and conditions of this Contract. Wholesale/Inter-carrier Agreements shall not be considered as subcontractor relationships that need to be disclosed or approved by the State Procurement Office.

AT&T Exception:
~~All terms and conditions relating to subcontracting shall be as set forth in the Proposed Contract Documents, in particular Section 10.6 ("Assignment and Subcontracting") of the Unified Agreement. In particular, AT&T requests the ability to subcontract to an AT&T affiliate or a third party for the work to be performed under the agreement provided AT&T shall remain financially responsible for the performance of such work.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T agrees to this section subject to the interlineations noted below:
Supplemental to the Subcontractor term in the Uniform Terms and Conditions, Contractor shall not enter into any Subcontract under this Contract, for the provision of supplies or performance of services under this Contract, without the advance written approval, by way of bilateral contract amendment, of the State Procurement Office. When requesting the Procurement Officer's approval, the Contractor shall list all new subcontractors, their contact information, certifications required of them, their Minority and Women Owned Enterprise status (cite any certifications use in determining such status) as well as the subcontractor's proposed responsibilities under the Contract. ~~The Subcontractor's most current certificate of insurance shall be provided at this time as well. With the request, Contractor shall certify that all Subcontracts incorporate by reference the terms and conditions of this Contract.~~ Wholesale/Inter-carrier Agreements shall not be considered as subcontractor relationships that need to be disclosed or approved by the State Procurement Office.

State's Final Response: Accepted.

16) Solicitation section reference: Special Terms and Conditions

14. WARRANTY
14.1 Liens. The Contractor warrants that the Materials supplied under this Contract are free of liens and shall remain free of liens.
14.2 Quality. Unless otherwise modified elsewhere in the terms and conditions, the Contractor warrants that, for one year after acceptance by the State, the Materials shall be:
- Of a quality to pass without objection in the trade under the Contract description;
- Fit for the intended purposes for which the Materials are used;
- Conform to the written promises or affirmations of fact made by the Contractor; and
- Fully compatible with the State's computer hardware and software environment.

14.3 Fitness. The Contractor warrants that any Materials supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

AT&T Exception:
~~AT&T MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT AND SPECIFICALLY DISCLAIMS ANY WARRANTY ARISING BY USAGE OF TRADE OR BY COURSE OF DEALING. FURTHER, AT&T MAKES NO REPRESENTATION OR WARRANTY THAT TELEPHONE CALLS OR OTHER TRANSMISSIONS WILL BE ROUTED OR COMPLETED WITHOUT ERROR OR INTERRUPTION (INCLUDING CALLS TO 911 OR ANY SIMILAR EMERGENCY RESPONSE NUMBER) AND MAKES NO GUARANTEE REGARDING NETWORK SECURITY, THE ENCRYPTION EMPLOYED BY ANY SERVICE, THE INTEGRITY OF ANY DATA THAT IS SENT, BACKED UP, STORED OR SUBJECT TO LOAD BALANCING OR THAT AT&T'S SECURITY PROCEDURES WILL PREVENT THE LOSS OR ALTERATION OF OR IMPROPER ACCESS TO CUSTOMER'S DATA AND INFORMATION.~~

~~Additional information can be found in Section 6 ("Limitations of Liability and Disclaimers") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.~~

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:

AT&T proposes the following as a substitution for Section 7 above:
LIENS: AT&T warrants that the materials supplied under this Contract are free of third party liens and shall remain free of such liens.
MATERIAL AND SOFTWARE WARRANTY: AT&T shall pass through to the State any warranties for Material and Software available from the manufacturer or licensor. The manufacturer or licensor, and not AT&T, is responsible for any such warranty terms and commitments. ALL MATERIAL AND SOFTWARE IS OTHERWISE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS.

State's Final Response: Accepted.

17) Solicitation section reference: Special Terms and Conditions

14.5 Compliance with Applicable Laws. The Materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

Contractor represents and warrants to the State that Contractor has the skill and knowledge possessed by members of its trade or profession and Contractor will apply that skill and knowledge with care and diligence so Contactor and Contractor's employees and any authorized subcontractors shall perform the Services described in this Contract in accordance with the Statement of Work.

Contractor represents and warrants that the Materials provided through this Contract and Statement of Work shall be free of viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the Materials, collect unlawful personally identifiable information on users or prevent the Materials from performing as required under the terms and conditions of this Contract.

AT&T Exception:
~~AT&T shall comply with applicable laws and refers the State to Section 10.12 of the Unified Agreement for additional information. AT&T does not make the warranties in the last two paragraphs above. All terms and conditions relating to warranties shall be as set forth in the Proposed Contract Documents, in particular Section 6 ("Limitations of Liability and Disclaimers") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:

AT&T will comply with all applicable laws and regulations and with all applicable orders issued by courts or other governmental bodies of competent jurisdiction.

AT&T shall employ and make available at reasonable times an adequate number of appropriately qualified and trained personnel, familiar with the State's operations and use of telecommunications services, to provide and support the State's use of the Services in accordance with the terms of this Agreement.

AT&T further represents that it shall take Commercially Reasonable Efforts (including testing), consistent with industry-accepted standards, designed to prevent the introduction of viruses or malware are introduced by AT&T into the State operating environment from or by the Services or AT&T Equipment provided by AT&T. In the event that a virus or malware is found to have been introduced into the State operating environment from the Services provided by AT&T, AT&T shall, at no additional charge and utilizing AT&T existing personnel and resources used to provide the Services, use Commercially Reasonable Efforts to assist the State in reducing the adverse effects of the virus or malware.

State's Final Response: Accepted as Clarification. No change to the original RFP language required.

18) Solicitation section reference: Special Terms and Conditions

15. AUTHORIZATION FOR SERVICES
Authorization for purchase of services shall be made only upon the issuance of a Purchase Order that is signed by an authorized agent. The Purchase Order will indicate the contract number and the dollar amount of funds authorized. The Contractor shall only be authorized to perform services up to the amount on the Purchase Order. The State shall not have any legal obligation to pay for services in excess of the amount indicated on the Purchase Order. No further obligation for payment shall exist unless a) the Purchase Order is changed or modified with an official Change Order, and/or b) an additional Purchase Order is issued for purchase of services under this Contract.

AT&T Exception:
~~Any Customer purchase orders issued for services as provided under this RFP must clearly provide that the purchase is made via the mutually agreed contract documents and not subject to the preprinted terms of that purchase order form. Any terms or conditions on a purchase order that are in addition to or in conflict with the terms and conditions of the parties' agreement shall be null and void. The length of a customer's legal obligation to pay for services shall be based on the parties' ultimate agreement, including Section 8 of the Unified Agreement ("Suspension and Termination") and any Minimum Payment Periods as described in Pricing Schedules.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:

AT&T agrees in principle with this Section and requests clarification the terms of the applicable purchase order shall set forth the parties rights

and obligations when the maximum purchase limit has been reached.

For example, the purchase order might state:

The State agrees to pay AT&T for the Services provided under this Pricing Schedule in an amount not to exceed $_____ (excluding taxes, surcharge, recovery fees, and other similar charges) (hereinafter referred to as the "Not to Exceed Amount"), except as set forth herein. Funds for services over the Not to Exceed Amount shall require approval by the applicable <purchasing entity> and the State shall use its best efforts to promptly seek such approval. The State understands that AT&T may continue billing for services subject to this Pricing Schedule after the Not to Exceed Amount is met until such time as this Agreement and/or this Pricing Schedule is terminated by either party in accordance with the terms of this Agreement. If the limit is exceeded and the State obtains the approval from such authority to increase the Not to Exceed Amount for funds for Services over the Not to Exceed Amount, then State shall pay AT&T for such Services, provided however, that the State shall not be liable for any fees or penalties associated with the late payment of any and all amounts billed in excess of the Not to Exceed Amount which were assessed prior to the date of such approval. If such approval to amend the Not to Exceed Amount is denied the State shall notify AT&T within two (2) days of such denial. At any time after the State exceeds the Not to Exceed Amount, AT&T reserves the right to terminate this Agreement with fourteen (14) calendar days advance written notice to the State; however the State shall not be liable for any non-payment, late payment, fee, penalty, or other expense of any billed Service in excess of the Not to Exceed Amount, nor shall the State's failure to pay any such amounts be deemed a material breach of this Agreement. The State shall be responsible for tracking its total expenditures under the Agreement as long as the Agreement remains in effect. AT&T assumes no responsibility for tracking this dollar amount."

State's Final Response: Not Accepted. However the state can offer the following language as clarification in lieu of the paragraph above: The utilizing Customer is responsible for monitoring their POs based on their budgets. Further, under resultant contracts customers utilizing your services are required to pay for accepted services.

19) Solicitation section reference: Special Terms and Conditions

17. BILLING

Contractors will be doing business with Customers of dramatically different size and need. As such, different levels of complexity in billing may be required. An objective of this contract is to meet the various needs of different customers in standard electronic format. The State desires electronic billing be adopted where possible for any purchased services by any customer for services covered by this Contract.

AT&T Exception:
~~In response to Section 17 and all subsections thereto, all terms and conditions relating to invoicing, billing and payments shall be as set forth in the Proposed Contract Documents, in particular the Pricing Schedules and Section 4 ("Pricing and Billing") of the Unified Agreement and all subsections thereto.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

20) Solicitation section reference: Special Terms and Conditions

19.2 Price Reduction

Price reductions may be submitted in writing to the State for consideration at any time during the contract period. The State at its own discretion may accept a price reduction. In relation to recurring costs based on most favored term pricing, after 3 years of completed service customer may request a review of the contract to bring pricing into line with current market pricing. Any price reductions requests that are accepted by the State will be acknowledged by the issuance and acceptance of a fully executed bilateral contract amendment. Any accepted price reduction shall be available to all customers who may utilize this contract.

AT&T Exception:
~~AT&T has provided competitive pricing; but because of the size and scope or our business, we cannot otherwise guarantee how the pricing and terms proposed here may compare with other pricing and terms for the duration of any contract with the State.~~

State Response: See highlighted text above, no action necessary, exception does not alter the language of the solicitation. Section references that the customer may request, not that it is given.

AT&T Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

21) Solicitation section reference: Special Terms and Conditions

20.2 Security Requirements for Contractor Personnel.

Each individual proposed to provide services through this contract agrees to security clearance and background check procedures, including fingerprinting, as defined by the Arizona Department of Administration in accordance with Arizona Revised Statutes

§41-710. The results of the individual's background check procedures must meet all HIPAA and law enforcement requirements. Contractor is responsible for all costs to obtain security clearance for their consultants providing services through this contract. Contractor personnel, agents or sub-contractors that have administrative access to the State's networks may be subject to any additional security requirements of ADOA-ASET as may be required for the performance of the contract. The Contractor, its agents and sub-contractors shall provide documentation to ADOA-ASET confirming compliance with all such additional security requirements for performance of the contract. Additional security requirements include but are not limited to the following:

20.2.1 Identity and Address Verification – that verifies the individual is who he or she claims to be including verification of the candidate's present and previous addresses;
20.2.2 UNAX/confidentiality Training;
20.2.3 HIPAA Privacy and Security Training; and
20.2.4 Information Security Training.

AT&T Exception:
~~AT&T provides services to many customers across the country, including thousands of schools and libraries. AT&T's commitment to safeguard students is well known and includes the experience and personnel to comply with all relevant statutory requirements regarding on-premise work. To the extent any statutory law becomes relevant to AT&T's work activities, AT&T will work with the State to the extent required by the applicable law, and allowed by AT&T's collective bargaining agreements and privacy policies, to establish a mutually acceptable screening process that complies with the statutory provision and a list of AT&T employees who might have contact with children. Prior to commencing work on the project, to the extent work activities require, AT&T shall certify compliance with the applicable statutory provision. Background checks requested by the State beyond those which are legally required by the statutory provision will be at State's expense.~~

State Response: Unacceptable. Contractor is responsible for all costs to obtain security clearance.

AT&T Revised Response:
AT&T will comply with applicable state law requirements for screening of onsite workers. AT&T does not anticipate that there will be direct contact with students in the performance of this work. AT&T will however comply with all legally required background check requirements consistent with applicable laws, collective bargaining agreements, privacy concerns and AT&T policies. Where one or more U.S. AT&T employees, agents, representatives or third-party contractors (collectively, AT&T Personnel) requires direct access to the State's facilities, AT&T will perform a background check on such AT&T Personnel, or will cause its subcontractors to perform similar background checks, consistent with AT&T's then current U.S. background check and drug screen practices. AT&T will assign only those employees who have successfully completed such tests and upon written request will provide proof of a satisfactory criminal record history of all individuals working on the State property through background checks conducted.

State's Final Response: Accepted as clarification, no change to original RFP language required.

22) Solicitation section reference: Special Terms and Conditions

20.3 Information Access. The Contractor shall, where applicable, implement and/or use network management and maintenance applications and tools and appropriate fraud prevention and detection and encryption technologies. The Contractor and its employees, agents and Subcontractors shall comply with all policies and procedures of the individual Customer regarding data access, privacy and security, including those prohibiting or restricting remote access to the Customer's systems and data. The Customer shall authorize, and the Contractor shall issue, any necessary information-access mechanisms, including access IDs and passwords, and the Contractor agrees that the same shall be used only by the personnel to whom they are issued. The Contractor shall provide to such personnel only such level of access as is minimally necessary to perform the tasks and functions for which such personnel are responsible. The Contractor shall from time-to-time, upon request from the Customer, but in the absence of any request from the Customer at least quarterly, provide the Customer with an updated list of the Contractor personnel having access to the Customer's systems, software, and data, and the level of such access. Computer data and software, including the Customers Data, provided by the Customer or accessed (or accessible) by the Contractor personnel or the Contractor's Subcontractor personnel, shall be used by such personnel only in connection with the obligations provided hereunder, and shall not be commercially exploited by the Contractor or its Subcontractors in any manner whatsoever. Failure of the Contractor or the Contractor's Subcontractors to comply with the provisions of this Contract may result in the Customer restricting offending personnel from access to the Customer computer systems or the Customer Data or immediate termination of this Contract. It shall be the Contractor's obligation to maintain and ensure the confidentiality and security of the Customer Data in its possession or on its systems.

AT&T Exception:
~~As set forth in Section 5.4 ("Privacy") of the proposed Unified Agreement:~~

~~Each party is responsible for complying with the privacy laws applicable to its business. AT&T shall require its~~

~~personnel, agents and contractors around the world who process Customer Personal Data to protect Customer Personal Data in accordance with the data protection laws and regulations applicable to AT&T's business. If Customer does not want AT&T to comprehend Customer data to which it may have access in performing Services, Customer must encrypt such data so that it will be unintelligible. Customer is responsible for obtaining consent from and giving notice to its Users, employees and agents regarding Customer's and AT&T's collection and use of the User, employee or agent information in connection with a Service. Customer will only make accessible or provide Customer Personal Data to AT&T when it has the legal authority to do so. Unless otherwise directed by Customer in writing, if AT&T designates a dedicated account representative as Customer's primary contact with AT&T, Customer authorizes that representative to discuss and disclose Customer's customer proprietary network information to any employee or agent of Customer without a need for further authentication or authorization.~~

~~All terms and conditions relating to confidential information shall be as set forth in Section 5 ("Confidential Information") of the proposed Unified Agreement.~~

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:

1. Neither AT&T nor the State represents or guarantees that its security procedures will prevent the loss of, alteration of, or improper access to data in its possession or under its management, but each party will comply with this Addendum concerning measures taken: (i) by the State to encrypt data prior to transmission or storage via the Services; (ii) by AT&T to safeguard data in transit on an AT&T network; and (iii) by AT&T and the State to safeguard Confidential Information.
2. AT&T will limit access to the State's Confidential Information and data managed by AT&T or in transit on an AT&T network to AT&T personnel who have a need for access for the purpose of providing Services.
3. AT&T will maintain programs and processes under which employees, contractors, and subcontractors are screened, trained on security policies and made aware of their responsibilities with regard to AT&T and the State's Confidential Information. AT&T will also maintain a comprehensive security program with the objective of broadly incorporating security measures into all AT&T's computing and networking environments ("AT&T Security Program").
4. AT&T will regularly re-evaluate and modify its security standards at its discretion as generally accepted industry standards evolve, as new technologies emerge or as new threats are identified. AT&T's security standards are themselves sensitive information and as part of the AT&T Security Program the standards are kept confidential and generally not disclosed to third parties.
5. The parties acknowledge that Services offered by AT&T have varying levels of inherent security risk. In addition, some Services may involve the transmission of voice and data traffic from, to, or over third-party networks over which AT&T exercises no control, and such transmissions may not have protections against unauthorized access.

State's Final Response: The State Accepts the below language as an addition to the original term within the RFP document.

1. Each party shall comply with measures taken: (i) by the State to encrypt data prior to transmission or storage via the Services; (ii) by AT&T to safeguard data in transit on an AT&T network; and (iii) by AT&T and the State to safeguard Confidential Information.
2. AT&T will limit access to the State's Confidential Information and data managed by AT&T or in transit on an AT&T network to AT&T personnel who have a need for access for the purpose of providing Services.
3. AT&T will maintain programs and processes under which employees, contractors, and subcontractors are screened, trained on security policies and made aware of their responsibilities with regard to AT&T and the State's Confidential Information. AT&T will also maintain a comprehensive security program with the objective of broadly incorporating security measures into all AT&T's computing and networking environments ("AT&T Security Program").
4. AT&T will regularly re-evaluate and modify its security standards at its discretion as generally accepted industry standards evolve, as new technologies emerge or as new threats are identified. AT&T's security standards are themselves sensitive information and as part of the AT&T Security Program the standards are kept confidential and generally not disclosed to third parties.
5. The parties acknowledge that Services offered by AT&T have varying levels of inherent security risk. In addition, some Services may involve the transmission of voice and data traffic from, to, or over third-party networks over which AT&T exercises no control, and such transmissions may not have protections against unauthorized access. AT&T shall notify the State prior to providing service through third parties
6. AT&T shall immediately (within 24 hours) notify the State's authorized representative should the State's 'Confidential Information" be compromised.

23) Solicitation section reference: Special Terms and Conditions

20.4 Information Disclosure. The Contractor shall establish and maintain procedures and controls that are acceptable to the State for the purpose of assuring that no information contained in its records or obtained from the state or from others in carrying out its functions under the contract shall be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the State. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the State.

AT&T Exception:

~~All terms and conditions relating to confidential information shall be as set forth in Section 5 ("Confidential Information") of the proposed Unified Agreement.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement.

AT&T Revised Response:

AT&T will maintain a set of security standards drawing upon leading industry standards (e.g., COBIT, ISO/IEC 27001:2005, etc.). In providing Services under the Agreement, AT&T will follow AT&T security standards. AT&T maintains global ISO 27001 certification that encompasses all functions and services within the business, including our network operations centers, all AT&T IDCs , and AT&T's Hosting & Cloud Services.. To maintain the certification, AT&T must undergo annual recertification assessments, which it is committed to completing and achieving ongoing certification. In compliance with the ISO 27001:2005 standard for information security, AT&T has produced and implemented an approved Information Security Management System (ISMS) which complies with the requirements of ISO 27001 and a Statement of Applicability. Upon request from the State's AT&T account team, AT&T will provide about a copy of its ISO 27001 certification, Information Security Management System (ISMS), and Statement of Applicability.

State's Final Response: Accepted as clarification, no change to original RFP language required.

24) Solicitation section reference: Special Terms and Conditions

20.5 Building Access.

20.5.1 Contractor access to Customer facilities and resources shall be properly authorized by Customer personnel, based on business need and

will be restricted to least possible privilege. Upon approval of access privileges, the Contractor shall maintain strict adherence to all policies, standards, and procedures. Policies / Standards, ADOA/ASET Policies / Procedures, and Arizona Revised Statues (ARS) 28-447, 28-449, 28-450, 38-421, 13-2408, 13-2316, 41-770).

20.5.2 Failure of the Contractor, its agents or subcontractors to comply with policies, standards, and procedures including any person who commits an unlawful breach or harmful access (physical or virtual) will be subject to prosecution under all applicable state and / or federal laws. Any and all recovery or reconstruction costs or other liabilities associated with an unlawful breach or harmful access shall be paid by the Contractor.

AT&T Exception:
~~AT&T's Response is submitted under applicable laws and regulations current at the time of contract execution. Changes in laws and regulations may require changes in pricing and performance. If awarded the business AT&T would be glad to review applicable policies and comply to the extent consistent with the agreements signed by the parties, AT&T's obligations under its collective bargaining agreements and other third party requirements, and AT&T's policy requirements.~~

State Response: Unacceptable. AT&T's response does not coincide with the section referenced

AT&T Revised Response:
AT&T further represents that it shall take Commercially Reasonable Efforts (including testing), consistent with industry-accepted standards, designed to prevent the introduction of viruses or malware are introduced by AT&T into the State operating environment from or by the Services or AT&T Equipment provided by AT&T. In the event that a virus or malware is found to have been introduced into the State operating environment from the Services provided by AT&T, AT&T shall, at no additional charge and utilizing AT&T existing personnel and resources used to provide the Services, use Commercially Reasonable Efforts to assist the State in reducing the adverse effects of the virus or malware.

State's Final Response: Accepted as Clarification. No change to the original RFP language required.

25) Solicitation section reference: Special Terms and Conditions

21. SECTION 508 COMPLIANCE

Unless specifically authorized in the Contract, any electronic or information technology offered to the State of Arizona under this Contract shall comply with A.R.S. § 41-3531 and § 41-3532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

AT&T Exception:
~~Each party will comply with all applicable laws and regulations and with all applicable orders issued by courts or other governmental bodies of competent jurisdiction.~~

State Response: Unacceptable. Exception is not applicable

AT&T Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

26) Solicitation section reference: Special Terms and Conditions

22. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the State in the course of performance of the Contract so that both the State and the Contractor will be in compliance with HIPAA, including cooperation and coordination with the Arizona Strategic Enterprise Technology (ASET) Group, Statewide Information Security and Privacy Office (SISPO), Chief Privacy Officer and HIPAA Coordinator and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the State and Contractor in compliance with HIPAA, including but not limited to, business associate agreements.

If requested, the Contractor agrees to sign a "Pledge to Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the ASET/SISPO Chief Privacy Officer and HIPAA Coordinator.

AT&T Exception:
~~AT&T enforces strict internal policies to protect our Customers' confidential data and information. All terms and conditions relating to confidential information shall be as set forth in Section 5 ("Confidential Information") of the proposed Unified Agreement. AT&T's response is submitted under applicable laws and regulations current at the time of contract execution. AT&T shall comply with all laws applicable to AT&T. Changes in laws and regulations may require changes in pricing and performance.~~

~~AT&T cannot agree to sign agreements regarding disclosure of the State's information or follow other policies which it has not previously~~

~~reviewed. Further, AT&T is not aware of any services requested herein that will involve HIPAA regulations.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:

AT&T proposes the following in lieu of Section 22:
AT&T shall require its personnel, agents and contractors around the world who process the State Personal Data to protect the State Personal Data in accordance with the data protection laws and regulations applicable to AT&T's business. If the State does not want AT&T to comprehend the State data to which it may have access in performing Services, the State must encrypt such data so that it will be unintelligible. In addition, AT&T will, if appropriate, negotiate a Business Associate Agreement mutually acceptable to the Parties. All personal health information must be encrypted.

The State's Final Response: The State accepts the following clarification: AT&T acknowledges the State's need to keep confidential information—particularly PHI--private and secure. However, we believe the Pledge neither satisfies the parties' legal requirements nor suffices as an appropriate contracting vehicle. Accordingly, AT&T submits that the parties negotiate pertinent security, privacy and confidentiality provisions by starting with the AT&T's Business Associate Agreement.

27) Solicitation section reference: Special Terms and Conditions

23. FIRST PARTY LIMITATION OF LIABILITY
not-to-exceed amount of this Contract. The foregoing limitation of liability shall not apply to: (i) liability, including indemnification obligations, for third party claims, including but not limited to, infringement of third party intellectual property rights; (ii) claims covered by any specific provision of the Contract calling for liquidated damages or other amounts, including but not limited to, performance requirements; or (iii) costs or attorneys' fees that the State is entitled to recover as a prevailing party in any action.

AT&T Exception:
~~All terms and conditions relating to limitation of liability shall be as set forth in the Proposed Contract Documents, in particular Section 6 ("Limitations of Liability and Disclaimers") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:

AT&T proposes the following as a replacement for this Section:
1. LIMITATIONS OF LIABILITY AND DISCLAIMERS
1.1 **Limitation of Liability**.
(a) EITHER PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR DAMAGES ON ACCOUNT OF ANY CLAIM ARISING OUT OF AND NOT DISCLAIMED UNDER THIS AGREEMENT SHALL BE:
(i) FOR BODILY INJURY, DEATH OR DAMAGE TO REAL PROPERTY OR TO TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY A PARTY'S NEGLIGENCE, PROVEN DIRECT DAMAGES;
(ii) FOR BREACH OF CONFIDENTIAL INFORMATION, RIGHT TO PUBLICITY, OR TRADEMARKS PROVEN DIRECT DAMAGES;
(iii) FOR ANY THIRD-PARTY CLAIMS, THE REMEDIES AVAILABLE UNDER SECTION 2 (Third Party Claims);
(iv) FOR CLAIMS ARISING FROM THE OTHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PROVEN DAMAGES; OR
(v) FOR CLAIMS OTHER THAN THOSE SET FORTH IN SECTION THIS SECTION, PROVEN DIRECT DAMAGES NOT TO EXCEED, ON A PER CLAIM OR AGGREGATE BASIS DURING ANY TWELVE (12) MONTH PERIOD, AN AMOUNT EQUAL TO THE TOTAL NET CHARGES INCURRED BY CUSTOMER FOR THE AFFECTED SERVICE IN THE RELEVANT COUNTRY DURING THE THREE (3) MONTHS PRECEDING THE MONTH IN WHICH THE CLAIM AROSE.
(b) EXCEPT AS SET FORTH IN SECTION (Third Party Claims) OR IN THE CASE OF A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS.
(c) THE LIMITATIONS IN THIS SECTION SHALL NOT LIMIT THE STATE'S RESPONSIBILITY FOR THE PAYMENT OF ALL PROPERLY DUE CHARGES UNDER THIS AGREEMENT.

2. THIRD PARTY CLAIMS
2.1 **AT&T's Obligations**. AT&T agrees at its expense to defend and either to settle any third-party claim against the State, its Affiliates and its and their respective employees and directors or to pay all damages that a court finally awards against such parties for a claim alleging that a Service provided to the State under this Agreement infringes any patent, trademark, copyright or trade secret, but not where the claimed infringement arises out of or results from: (a) the State's, its Affiliate's or a User's content; (b) modifications to the Service by the State, its Affiliate or a third party, or combinations of the Service with any non-AT&T services or products by the State or others; (c) AT&T's adherence to the State's or its Affiliate's written requirements; or (d) use of a Service in violation of this Agreement.
2.2 **The State's Obligations**. The State agrees at its expense to defend and either to settle any third-party claim against AT&T, its Affiliates and its and their respective employees, directors, subcontractors and suppliers or to pay all damages that a court finally awards against such parties for a claim that: (a) arises out of the State's, its Affiliate's or a User's access to or use of the Services and the claim is not the responsibility of AT&T under Section 2.1; (b) alleges that a Service infringes any patent, trademark, copyright or trade secret and falls within the exceptions in Section 2.1; or (c) alleges a breach by the State, its Affiliate or a User of a Software license agreement.
2.3 **Infringing Services**. Whenever AT&T is liable under Section 2.1, AT&T may at its option either procure the right for the State to

continue using, or may replace or modify, the Service so that it is non-infringing.

2.4 **Notice and Cooperation**. The party seeking defense or settlement of a third-party claim under this Section 2 will provide notice to the other party promptly upon learning of any claim for which defense or settlement may be sought, but failure to do so will have no effect except to the extent the other party is prejudiced by the delay. The party seeking defense or settlement will allow the other party to control the defense and settlement of the claim and will reasonably cooperate with the defense. The defending party will use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim where relief against the party being defended is limited to monetary damages that are paid by the defending party under this Section 2.

2.5 AT&T's obligations under Section 2.1 shall not extend to actual or alleged infringement or misappropriation of intellectual property based on Purchased Equipment, Software, or Third-Party Services.

State's Final Response: Approved, and shall replace original RFP language as requested above by AT&T.

28) Solicitation section reference: Special Terms and Conditions

24. INDEMNIFICATION

Contractor shall indemnify, defend with counsel reasonably approved by the State, and hold harmless, the State, its departments, agencies, boards, commissions, universities, officers, agents and employees (collectively, the "Indemnitee") from and against any and all claims, actions, damages, costs (including attorneys' fees), and losses arising under this Contract, including, but not limited to, bodily injury or personal injury (including death) or loss or damage to tangible or intangible property, but excluding damages arising solely from the gross negligence or willful misconduct of the Indemnitee. This indemnification obligation includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of Contractor to comply with any federal, state or local law, statute, ordinance, rule, regulation or court decree. Contractor shall have control, subject to the reasonable approval of the State, of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when substantial principles of government or public law are involved, or when involvement of the State is otherwise mandated by law, the State may elect, in its sole and absolute discretion, to participate in such action at its own expense with respect to attorneys' fees and costs, but not liability, and the State shall have the right to approve or disapprove any settlement, which approval shall not be unreasonably withheld or delayed. The State shall reasonably cooperate in its defense and any related settlement negotiations.

AT&T Exception:

~~All terms and conditions relating to indemnification and holding the Customer harmless shall be as set forth in the Proposed Contract Documents, in particular Section 7 ("Third Party Claims") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:
Please see Exception 27 above.

State's Final Response: Exception withdrawn by AT&T.

29) Solicitation section reference: Special Terms and Conditions

25. IP INDEMNIFICATION

Indemnification - Patent and Copyright. With respect solely to Materials provided or proposed by Contractor or Contractor's agents, emp1oyees, or subcontractors (each a "Contractor Party") for performance of this Contract, Contractor shall indemnify, defend and hold harmless the State, its departments, agencies, boards, commissions, universities, officers, agents and employees (collectively, the "Indemnitee"), against any third-party claims for liability, including, but not limited to, reasonable costs and expenses, including attorneys' fees, for infringement or violation of any patent, trademark, copyright or trade secret, by such Materials or the State's use thereof.

AT&T Exception:

~~All terms and conditions relating to infringement indemnity shall be as set forth in the Proposed Contract Documents, in particular Section 7 ("Third Party Claims") of the Unified Agreement and all subsections thereto.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:
Please see Exception 27 above.

State's Final Response: Exception withdrawn by AT&T.

30) Solicitation section reference: Special Terms and Conditions

26. INTELLECTUAL PROPERTY

26.1 Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, or trade secrets created or conceived solely pursuant to or as a result of this Contract and any related subcontract (collectively, the "Intellectual Property"), shall be work made for hire and the State shall be the owner of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this Contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Software and other Materials

developed or otherwise obtained by or for Contractor or its affiliates independently of this Contract ("Independent Materials") do not constitute Intellectual Property. If Contractor creates derivative works of Independent Materials, then the elements of such derivative works created pursuant to this Contract shall constitute Intellectual Property owned by the State. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this Contract.

Notwithstanding the foregoing, if the State elects, in its sole and absolute discretion, to relinquish its ownership interest in any or all of the Intellectual Property, the State shall have the rights to use, modify, reproduce, release, perform, display, sublicense or disclose such Intellectual Property within State government and operations without restriction for any activity in which the State is a party (collectively, "Government Purpose Rights").

AT&T Exception:
AT&T takes exception. AT&T does not anticipate that any work product will be created for this engagement. However, if it were, all intellectual property and proprietary rights arising by virtue of AT&T's performance of the Services are and will be the sole and exclusive property of AT&T, and neither ownership nor title to any such property will pass to Customer.

Customer shall own the copies of any reports produced and furnished to Customer by AT&T in providing the Service ("Reports"), and Customer is granted, under AT&T's copyrights, the perpetual, non-exclusive, personal and non-transferable right to reproduce and modify the Reports for Customer's own internal business purposes. For avoidance of doubt, "internal business purposes" exclude public distribution or resale to third parties and revenue generation purposes.

AT&T grants to Customer the non-exclusive, personal, and non-transferable right to use any items (other than Reports) produced and furnished to Customer by AT&T in providing the Services, solely for Customer's own internal business purposes during the term of this Attachment, or for such other purposes as may be mutually agreed in writing by the parties.

State Response: Exception unacceptable only for the fact it doesn't change language as stated within solicitation. Exception is a clarification and covered under terms as written in the solicitation.

AT&T's Revised Response:
AT&T proposes to delete this Section as not applicable.
AT&T does not expect to be generating any intellectual property as a result of this procurement, so AT&T does not agree to this section. If the parties subsequently engage in a project that is expected to involve generation of intellectual property, the parties will agree at that time on ownership of work product.

State's Final Response: Accepted as clarification, no change to original RFP language required.

31) Solicitation section reference: Special Terms and Conditions

27. SURVIVAL OF RIGHTSAND OBLIGATIONS AFTER CONTRACT EXPIRATION OR TERMINATION

27.1 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition the parties hereto acknowledge that pursuant to A.RS § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.

27.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer including, without limitation, all purchase orders received prior to, but not fully performed and satisfied at the expiration or termination of, this Contract.

AT&T Exception:
Should the parties agree that the method of purchase for any products/services provided under this RFP shall be via Customer's purchase order, such purchase orders must clearly provide that the purchase is made pursuant to the mutually agreed contract documents and is not subject to the preprinted terms of that purchase order form.

State Response: Unacceptable, the issuance of a purchase order under the awarded contract is subject to said contract terms.

AT&T Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

32) Solicitation section reference: Special Terms and Conditions

28. Insurance Requirements

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants

contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

AT&T Exception:

Contractor and subcontractors only while working hereunder shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

State's Final Response: Exception withdrawn by AT&T during discussions held on 1/20.

33) Solicitation section reference: Special Terms and Conditions

28.1 MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below.

28.1.1 Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability coverage.

- General Aggregate $5,000,000
- Products – Completed Operations Aggregate $1,000,000
- Personal and Advertising Injury $1,000,000
- Damage to Rented Premises $ 50,000
- Each Occurrence $1,000,000

28.1.1.1 The policy shall be endorsed (Blanket Endorsements are not acceptable) to include the following additional insured language: "The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor." Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

28.1.1.2 Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

AT&T Alternative Language:

28.1 MINIMUM SCOPE AND LIMITS OF INSURANCE:

Contractor shall provide coverage with limits of liability ~~not less than those~~ as stated below.

MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability as stated below.

28.1.1 Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability coverage.

General Aggregate	$5,000,000
Products – Completed Operations Aggregate	$1,000,000
Personal and Advertising Injury	$1,000,000
Damage to Rented Premises	$ 50,000
Each Occurrence	$1,000,000

28.1.1.1 The policy shall be endorsed **(Blanket Endorsements are not acceptable)** to include the following additional insured language: ***"The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor."*** Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

28.1.1.2 Policy shall contain a waiver of subrogation endorsement **(Blanket Endorsements are not acceptable)** in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

AT&T Exception:

Policy shall contain a waiver of subrogation in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

State Response: Unacceptable. No effect by changes made

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

34) Solicitation section reference: Special Terms and Conditions

28.1.2 Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

- Combined Single Limit (CSL) $1,000,000

28.1.2.1 The policy shall be endorsed (Blanket Endorsements are not acceptable) to include the following additional insured language: "The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor." Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

AT&T Exception:
~~The policy shall be include the following additional insured : "The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor."~~

State Response: Unacceptable. Exception not needed

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

35) Solicitation section reference: Special Terms and Conditions

28.1.2.2 Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.

AT&T Alternative Language:
28.1.2.2 Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the " State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.
28.1.2.3 Policy shall contain a severability of interest provision.
AT&T Exception:
~~Policy shall contain a waiver of subrogation in favor of the "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.~~

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

36) Solicitation section reference: Special Terms and Conditions

28.1.3 Worker's Compensation and Employers' Liability

- Workers' Compensation — Statutory
- Employers' Liability

Each Accident	$1,000,000
Disease – Each Employee	$1,000,000
Disease – Policy Limit	$1,000,000

28.1.3.1 Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.

AT&T Alternative Language:

28.1.3 Worker's Compensation and Employers' Liability

- Workers' Compensation — Statutory

- Employers' Liability

Each Accident	$1,000,000
Disease – Each Employee	$1,000,000
Disease – Policy Limit	$1,000,000

28.1.3.1 Policy shall contain a waiver of subrogation endorsement (Blanket Endorsements are not acceptable) in favor of the ***" State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees"*** for losses arising from work performed by or on behalf of the Contractor.

AT&T Exception:
~~Policy shall contain a waiver of subrogation in favor of the "State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees" for losses arising from work performed by or on behalf of the Contractor.~~

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

37) Solicitation section reference: Special Terms and Conditions

28.1.4 Technology Errors & Omissions Insurance

- Each Claim $ 2,000,000
- Annual Aggregate $ 2,000,000

28.1.4.1 Such insurance shall cover any and all errors, omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract.

AT&T Alternative Language:
28.1.4 Professional Liability Coverage including Technology Errors & Omissions and network security Insurance

- Each Claim $ 2,000,000
- Annual Aggregate $ 2,000,000

28.1.4.1 Such insurance shall cover ~~any and all~~ errors, omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract.

AT&T Exception:
Such insurance shall cover errors, omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

AT&T's Revised Response:
AT&T withdraws this exception. However, AT&T would point out that all insurance policies contain exclusions and thus the "any and all" language in Section 28.1.4.1 may not be accurate.

State's Final Response: Exception withdrawn by AT&T.

38) Solicitation section reference: Special Terms and Conditions

28.1.4.2 In the event that the Tech E&O insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

AT&T Alternative Language:
In the event that the Tech E&O insurance required by this Contract is written on a claims- made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a total period of two (2) years beginning at the time work under this Contract is completed.

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

39) Solicitation section reference: Special Terms and Conditions

28.1.5 Network Security (Cyber) and Privacy Liability (If applicable to service to be provided by the Contractor)

- Each Claim $ 2,000,000
- Annual Aggregate $ 2,000,000

28.1.5.1 Such insurance shall include but not limited to coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs – includes breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, funds transfer fund

28.1.5.2 In the event that the Network Security and Privacy Liability insurance required by this Contract is written on a claims- made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

AT&T Alternative Language:

~~28.1.5 Network Security (Cyber) and Privacy Liability (If applicable to service to be provided by the Contractor)~~

- ~~Each Claim $ 2,000,000~~
- ~~Annual Aggregate $ 2,000,000~~

~~28.1.5.1 Such insurance shall include but not limited to coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theftresponse costs – includes breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, funds transfer fund~~

~~28.1.5.2 In the event that the Network Security and Privacy Liability insurance required by this Contract is written on a claims made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.~~

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

AT&T's Revised Response:

AT&T does not purchase Network Security and Privacy Liability as separate coverage; they are included in the Technology Errors and Omissions policy required in 28.1.4.2. AT&T offers to double the per occurrence and aggregate limits in the Technology Errors and Omissions policy to $4 million

State's Final Response: Accepted as stated above by AT&T.

40) Solicitation section reference: Special Terms and Conditions

28.2 ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed (Blanket Endorsements are not acceptable) to include, the following provisions:

28.2.1 The Contractor's policies shall stipulate that the insurance afforded the contractor shall be primary insurance and that any insurance carried by the Department, and its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

28.2.2 Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

AT&T Alternative Language:

The policies shall include, or be endorsed ~~(Blanket Endorsements are not acceptable)~~ to include, the following provisions:

28.2.1 The Contractor's policies ~~shall stipulate that the insurance~~ afforded the contractor shall be primary insurance and that any insurance carried by the Department, and its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

41) Solicitation section reference: Special Terms and Conditions

28.3 NOTICE OF CANCELLATION:
With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract

in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to Charlotte Righetti, CPPB 100 N 15th Ave, Suite 201, Phoenix AZ 85007 and shall be sent by certified mail, return receipt requested.

AT&T Alternative Language:

28.3 ~~With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above~~ shall ~~require~~ (30) days written notice to the State of Arizona. Such notice shall be sent directly to **Charlotte Righetti, CPPB 100 N 15th Ave, Suite 201, Phoenix AZ 85007** and ~~shall be sent by certified mail, return receipt requested.~~

NOTICE OF CANCELLATION: Contractor shall provide at least (30) days written notice to the State of Arizona of any cancellation or non renewal of any required coverage that is not replaced. Such notice shall be sent directly to Charlotte Righetti, CPPB 100 N 15th Ave, Suite 201, Phoenix AZ 85007.

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

42) Solicitation section reference: Special Terms and Conditions

28.5 VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements (Blanket Endorsements are not acceptable) are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to Charlotte Righetti, CPPB 100 N 15th Ave, Suite 201, Phoenix AZ 85007. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

AT&T Exception:

28.5 VERIFICATION OF COVERAGE:

Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements ~~(Blanket Endorsements are not acceptable)~~ are to be received and approved by the State of Arizona before work commences. Each ~~insurance policy~~ required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to Charlotte Righetti, CPPB 100 N 15th Ave, Suite 201, Phoenix AZ 85007. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. ~~The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time~~.

AT&T Exception:

VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each coverage required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to Charlotte Righetti, CPPB 100 N 15th Ave, Suite 201, Phoenix AZ 85007. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance.

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

AT&T's Revised Response:
AT&T withdraws this exception, with the exception of the requirement in the last sentence in Section 25.2. AT&T will provide copies of our actual insurance policies only under very limited circumstances such as by subpoena, a court order or if a tendered claim is denied.

State's Final Response: Exception Approved.

43) Solicitation section reference: Special Terms and Conditions

28.6 SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insured under its policies or Contractor shall furnish to

the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

AT&T Alternative Language:
~~SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insured under its policies or Contractor shall endeavor to furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.~~

State Response: Unacceptable, the State is not accepting any exceptions to the insurance requirements

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

44) Solicitation section reference: Uniform Terms and Conditions

UNIFORM TERMS AND CONDITIONS
1. Definition of Terms
As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:
1.3 "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

AT&T Exception:
Any and all amendments must be in writing and signed by appropriate representatives of both parties.

State Response: Understood

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

45) Solicitation section reference: Uniform Terms and Conditions

2. Contract Interpretation
2.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

AT&T Exception:
AT&T's response is based on the terms and conditions of this Response and Proposed Contract Documents. Any implied contract terms will need to be reviewed and mutually agreed upon by the parties.

State Response: Understood

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

46) Solicitation section reference: Uniform Terms and Conditions

2.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
2.3.1 Special Terms and Conditions;
2.3.2 Uniform Terms and Conditions;
2.3.3 Statement or Scope of Work;
2.3.4 Specifications;
2.3.5 Attachments;
2.3.6 Exhibits;
2.3.7 Documents referenced or included in the Solicitation.

AT&T Exception:
All terms and conditions relating to order of priority shall be as set forth in the Proposed Contract Documents, in particular Section 1.2 ("Priority of Documents") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply. In all cases, the mutually agreed upon contract documents shall have precedence over the State's Special Terms and Conditions and Uniform Terms and Conditions.

State Response: Unacceptable. The State is not accepting AT&T 's Unified Agreement

AT&T's Revised Response:
AT&T agrees with the order of precedence set forth above provided that it incorporates all exceptions stated by AT&T and further provided that it applies solely to the interpretation of the documents comprising the Contract. However, AT&T requests and recommends that the Contract also

contain provisions that permit the Parties to modify the terms applicable to mutually agreed-upon future orders.

State's Final Response: Not Accepted. This is covered by Uniform Terms and Conditions section 5.1.

47) Solicitation section reference: Uniform Terms and Conditions

3. Contract Administration and Operation

3.1 Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

AT&T Exception:
AT&T will follow applicable legal requirements and its internal record retention policies with respect to records relating to this project.

With regard to all E-Rate records relating to any services provided as a result of an award to AT&T under this RFP, AT&T will follow all Service Provider requirements for the USF Schools and Libraries Program as set forth on the USAC website and FCC rules.

State Response: Understood

State's Final Response: Accepted as clarification, no change to original RFP language required.

48) Solicitation section reference: Uniform Terms and Conditions

3.3 Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

AT&T Exception:
~~AT&T does not agree to provide the State access to any records relating to our performance of the Contract except as they pertain to billing and invoices for the Services provided. For such billing records, AT&T proposes the following provision:~~

~~Audit Rights.~~

~~(a) Subject to AT&T's reasonable security requirements and not more than once every twelve (12) months, Customer may, at its own expense, review AT&T's relevant billing records for a period not to exceed the preceding 12 months, for the purpose of assessing the accuracy of AT&T's invoices to Customer. Customer may employ such assistance, as it deems desirable to conduct such reviews, but may not employ the assistance of any entity that derives a substantial portion of its revenues from the provision of services that are substantially similar to the Services provided hereunder or any person who has previously made prohibited use of AT&T's Confidential Information. Customer shall cause any person retained for this purpose to execute a non-disclosure agreement imposing substantially the same obligations of confidentiality as are set forth in Article 5.0. Such reviews shall take place at a time and place agreed upon by the parties. Customer's normal internal invoice reconciliation procedures shall not be considered a review of AT&T's relevant billing records for purposes of this Section.~~

~~(b) AT&T shall promptly correct any billing error that is revealed in a billing review, including refunding any overpayment by Customer in the form of a credit as soon as reasonably practicable under the circumstances.~~

~~(c) AT&T shall cooperate in any Customer billing review, providing AT&T billing records as reasonably necessary to verify the accuracy of AT&T's invoices. AT&T may redact from the billing records provided to Customer any information that reveals the identity or non-public information of other AT&T customers or other AT&T Confidential Information that is not relevant to the purposes of the review.~~

State Response: Unacceptable, the State is not accepting changes to these requirements

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

49) Solicitation section reference: Uniform Terms and Conditions

3.4 Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

AT&T Exception:
AT&T will be pleased to answer any questions regarding the provisioning of the services requested in the RFP. For security and policy reasons, AT&T does not typically inspections of its network facilities to third parties. Accordingly, once AT&T understands the Customer's specific issues, AT&T will work with the Customer to find an alternative way to address these concerns. AT&T does not agree to be responsible for payment of any

costs for any tests and/or inspections that the State may perform. If selected for this opportunity, AT&T is open to negotiating terms that provide for some, level of facilities inspection and materials testing. Such access right, however, would be subject to and limited by AT&T's reasonable policies and procedures pertaining to access to AT&T's facilities.

State Response: Unacceptable, exception agrees to terms as set forth in section referenced.

AT&T Revised Response:

For security reasons, AT&T proposes to strike the first sentence and the portion of the third sentence that refers to inspection of facilities. AT&T does not allow third parties to inspect its network facilities.

AT&T proposes to strike the last sentence. AT&T does not agree to be responsible for payment of any costs for any tests and/or inspections that the State may perform, regardless of the outcome of such tests.

State's Final Response: The State accepts the following language to replace the original RFP language: The State shall have the right to test, at its own cost, the materials to be supplied under this Contract. Should the State determine that any materials are non-compliant with the agreed-upon requirements as set forth in a Purchase Order or Statement of Work, AT&T shall either replace or modify the materials so that they are compliant.

50) Solicitation section reference: Uniform Terms and Conditions

3.5 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

AT&T Exception:
All terms and conditions relating to Notices shall be as set forth in the Proposed Contract Documents, in particular Section 10.10 ("Notices") of the Unified Agreement. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT&T's Unified Agreement

AT&T Revised Response:

AT&T accepts Section 3.5 as written and proposes to add the following:

Any required notices under this Agreement shall be in writing and shall be deemed validly delivered if made by hand (in which case delivery will be deemed to have been effected immediately), or by overnight mail (in which case delivery will be deemed to have been effected one (1) business day after the date of mailing), or by first class pre-paid post (in which case delivery will be deemed to have been effected five (5) days after the date of posting), or by facsimile or electronic transmission (in which case delivery will be deemed to have been effected on the day the transmission was sent).

State's Final Response: Accept and will be placed as a 2nd paragraph in addition to the original paragraph as stated in the Uniform T&Cs.

51) Solicitation section reference: Uniform Terms and Conditions

3.6 Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

AT&T Exception:
AT&T agrees provided this obligation applies mutually to the parties

State Response: Understood

AT&T's Revised Response:

AT&T proposes that the text for Section 3.6 read as follows:
Neither Party shall use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the other. State approval must be obtained from the Procurement Officer.

State's Final Response: Accepted as modified above by AT&T.

52) Solicitation section reference: Uniform Terms and Conditions

3.7 Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

AT&T Exception: AT&T Response:

AT&T does not expect to be generating any intellectual property as a result of this procurement, so AT&T does not agree to this section.

If the parties subsequently engage in a project that is expected to involve generation of intellectual property, the parties will agree at that time on ownership of work product.

State Response: Understood

AT&T's Revised Response:
AT&T proposes to delete this Section as not applicable.

State's Final Response: Accepted as clarification, no change to original RFP language required.

53) Solicitation section reference: Uniform Terms and Conditions

3.8 Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

AT&T Exception:
AT&T does not expect to be generating any intellectual property as a result of this procurement, so AT&T does not agree to this section.

If the parties subsequently engage in a project that is expected to involve generation of intellectual property, the parties will agree at that time on ownership of work product.

State Response: Understood

AT&T's Revised Response:
AT&T proposes to delete this Section as not applicable.

State's Final Response: Accepted as clarification, no change to original RFP language required.

54) Solicitation section reference: Uniform Terms and Conditions

3.11 Offshore Performance of Work Prohibited.
Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

AT&T Exception:
~~AT&T is proposing a well-established and industry leading AT&T services that will comply with the service levels, warranties and all other terms and conditions in the Proposed Contract Documents. While many service components will be provided solely by workers within the United States, some service support may be performed at non-United States locations~~

State Response: Unacceptable, refer to above highlighted text in 3.11

State's Final Response: Approved in exception #86.

55) Solicitation section reference: Uniform Terms and Conditions

4. Costs and Payments
4.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

AT&T Exception:
All terms and conditions relating to pricing and invoicing shall be as set forth in the Proposed Contract Documents, in particular the Pricing Schedule(s) and Section 4 ("Pricing and Billing") of the Unified Agreement and all subsections thereto.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

56) Solicitation section reference: Uniform Terms and Conditions

4.2 Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

AT&T Exception:

Except as specified in a Service Publication, title to Purchased Equipment shall pass to Customer on delivery to the transport carrier for shipment to Customer's designated location. AT&T will purchase transit insurance to cover risk of loss of the hardware to delivery to the Customer's designated location. AT&T will bill such transit insurance as part of the shipping costs, unless otherwise agreed in the Customer Order.

State Response: Unacceptable, no actin required, the exception agrees to the terms as outlined in the solicitation.

State's Final Response: Accepted as clarification, no change to original RFP language required.

57) Solicitation section reference: Uniform Terms and Conditions

4.3 Applicable Taxes.

4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

AT&T Exception:

In response to Section 4.3 and all subsections thereto, all terms and conditions relating to payment of taxes shall be as set forth in the Proposed Contract Documents, in particular the Pricing Schedule(s) and Section 4 ("Pricing and Billing") of the Unified Agreement and all subsections thereto.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:

AT&T suggests the following as a replacement for Section 4.3 in its entirety:
Prices set forth in this Agreement are exclusive of and the State will pay all taxes (excluding those on AT&T's net income), surcharges, recovery fees, customs clearances, duties, levies, shipping charges and other similar charges (and any associated interest and penalties resulting from the State's failure to timely pay such taxes or similar charges) relating to the sale, transfer of ownership, installation, license, use or provision of the Services, except to the extent the State provides a valid exemption certificate prior to the delivery of Services. To the extent required by law, the State may withhold or deduct any applicable taxes from payments due to AT&T, provided that the State will use reasonable commercial efforts to minimize any such taxes to the extent allowed by law or treaty and will furnish AT&T with such evidence as may be required by relevant taxing authorities to establish that such tax has been paid so that AT&T may claim any applicable credit.

State's Final Response: Accepted as clarification, no change to original RFP language required.

58) Solicitation section reference: Uniform Terms and Conditions

4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

AT&T Exception:

In response to Section 4.3 and all subsections thereto, all terms and conditions relating to payment of taxes shall be as set forth in the Proposed Contract Documents, in particular the Pricing Schedule(s) and Section 4 ("Pricing and Billing") of the Unified Agreement and all subsections thereto.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T Revised Response:
Please see response to item # 57 above.

State's Final Response: AT&T withdraws exceptions as clarification was accepted in Exception #57.

59) Solicitation section reference: Uniform Terms and Conditions

4.4 Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

AT&T Exception:

Non-Appropriations of Funding. If Customer is a government agency dependent entirely on government funding, by executing this Agreement, Customer warrants that Customer has funds appropriated and available to pay all amounts due hereunder through the end of Customer's current fiscal period. Customer further agrees to use reasonable efforts to obtain all appropriations and funding necessary to pay for the Services

for each subsequent fiscal period through the end of the applicable Minimum Payment Period. In the event Customer is unable to obtain the necessary appropriations or funding for the Services provided under this Agreement, Customer may terminate the Services without liability for the Termination Charges set forth in Section 8 (Suspension and Termination) upon the following conditions: (i) Customer has taken all actions necessary to obtain adequate appropriations or funding; (ii) despite Customer's best efforts funds have not been appropriated and are otherwise unavailable to pay for the Services; and (iii) Customer has negotiated in good faith with AT&T to develop revised terms, an alternative payment schedule or a new agreement to accommodate Customer's budget. Customer must provide AT&T thirty (30) days' written notice of its intent to terminate the Services under this section. Termination of the Services for failure to obtain necessary appropriations or funding shall be effective as of the last day for which funds were appropriated or otherwise made available. If Customer terminates the Services under this Agreement under this section, Customer agrees as follows: (i) it will pay all amounts due for Services incurred through date of termination, and reimburse all unrecovered non-recurring charges; and (ii) it will not contract with any other provider for the same or substantially similar services or equipment for a period equal to the original Minimum Payment Period for such Service(s).

Provisions for lack of funding as relates to any E-Rate services shall be as set out in the E-Rate Rider which is included as a part of the Proposed Contract Documents.

State Response: Unacceptable. Contractor shall not provide any services without the issuance of a purchase order which cannot be issued without appropriation of funds.

AT&T Revised Response:

AT&T accepts this Section subject to the following additions:

(i) The State shall, however, take all reasonable actions necessary to obtain adequate appropriations or funding: and if funds are nevertheless to pay for the Services, the State shall negotiate in good faith with AT&T to develop revised terms, and an alternative payment schedule or a new agreement to accommodate its budget.

(ii) If the State terminates the Services for the above reason:(i) it will pay all amounts due for Services incurred through date of termination, and reimburse all unrecovered non-recurring charges; and (ii) it will not contract with any other provider for the same or substantially similar services or equipment for a period equal to the applicable Service term.

State's Final Response: Not accepted, language shall not be added based on ARS 35-154.

60) Solicitation section reference: Uniform Terms and Conditions

4.5 Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract; or

4.5.3 Cancel the contract and re-solicit the requirements.

AT&T Exception:

Non-Appropriations of Funding. If Customer is a government agency dependent entirely on government funding, by executing this Agreement, Customer warrants that Customer has funds appropriated and available to pay all amounts due hereunder through the end of Customer's current fiscal period. Customer further agrees to use reasonable efforts to obtain all appropriations and funding necessary to pay for the Services for each subsequent fiscal period through the end of the applicable Minimum Payment Period. In the event Customer is unable to obtain the necessary appropriations or funding for the Services provided under this Agreement, Customer may terminate the Services without liability for the Termination Charges set forth in Section 8 (Suspension and Termination) upon the following conditions: (i) Customer has taken all actions necessary to obtain adequate appropriations or funding; (ii) despite Customer's best efforts funds have not been appropriated and are otherwise unavailable to pay for the Services; and (iii) Customer has negotiated in good faith with AT&T to develop revised terms, an alternative payment schedule or a new agreement to accommodate Customer's budget. Customer must provide AT&T thirty (30) days' written notice of its intent to terminate the Services under this section. Termination of the Services for failure to obtain necessary appropriations or funding shall be effective as of the last day for which funds were appropriated or otherwise made available. If Customer terminates the Services under this Agreement under this section, Customer agrees as follows: (i) it will pay all amounts due for Services incurred through date of termination, and reimburse all unrecovered non-recurring charges; and (ii) it will not contract with any other provider for the same or substantially similar services or equipment for a period equal to the original Minimum Payment Period for such Service(s). Provisions for lack of funding as relates to any E-Rate services shall be as set out in the E-Rate Rider which is included as a part of the Proposed Contract Documents.

State Response: Unacceptable, the State is not accepting changes to these requirements

AT&T Revised Response:

AT&T accepts this Section subject to the following additions:

(i) The State shall, however, take all reasonable actions necessary to obtain adequate appropriations or funding: and if funds are nevertheless to pay for the Services, the State shall negotiate in good faith with AT&T to develop revised terms, and an alternative payment schedule or a new agreement to accommodate its budget.

(ii) If the State terminates the Services for the above reason:(i) it will pay all amounts due for Services incurred through date of termination, and reimburse all unrecovered non-recurring charges; and (ii) it will not contract with any other provider for the same or substantially similar services or equipment for a period equal to the applicable Service term.

State's Final Response: Not accepted, language shall not be added based on ARS 35-154.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

61) Solicitation section reference: Uniform Terms and Conditions

5. Contract Changes

5.1 Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the 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 procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

AT&T Exception:

Notwithstanding the foregoing, AT&T may, without Customer's consent, assign its rights and obligations under this Agreement to an AT&T Affiliate that controls, is controlled by, or is under common control with AT&T, or subcontract to such an Affiliate or a third party work to be performed under this Agreement, but AT&T will in each such case remain financially responsible for the performance of such obligations.

State Response: Unacceptable, no contro ls shall be transferred witho ut t he Stat e's prio r co nsent.

AT&T Revised Response:
AT&T takes no exception to Section 5.1.

State's Final Response: Exception withdrawn by AT&T.

62) Solicitation section reference: Uniform Terms and Conditions

5.2 Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

AT&T Exception:

Notwithstanding the foregoing, AT&T may, without Customer's consent, assign its rights and obligations under this Agreement to an AT&T Affiliate that controls, is controlled by, or is under common control with AT&T, or subcontract to such an Affiliate or a third party work to be performed under this Agreement, but AT&T will in each such case remain financially responsible for the performance of such obligations

State Response: Unacceptable, no contro ls shall be transferred witho ut t he Stat e's prio r co nsent.

AT&T Revised Response:
With regard to Section 5.3, AT&T restates the above exception. AT&T will list subcontractors in our proposal, but retains the right to utilize the subcontractor and will remain financially responsible for the performance of such obligations.

State's Final Response: Not accepted, this was addressed with the Special Terms and Conditions Section 8.

63) Solicitation section reference: Uniform Terms and Conditions

6. Risk and Liability

6.1 Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

AT&T Exception:

Except as specified in a Service Publication, title to Purchased Equipment shall pass to Customer on delivery to the transport carrier for shipment to Customer's designated location. AT&T will purchase transit insurance to cover risk of loss of the hardware to delivery to the Customer's designated location. AT&T will bill such transit insurance as part of the shipping costs, unless otherwise agreed in the Customer Order.

State Response: Unacceptable, the State is not accepting shipping costs

AT&T Revised Response:
AT&T will bill transit insurance and shipping costs to the customer for any shipment of equipment, or shall include those costs in the price for any equipment.

State's Final Response: Not accepted, language shall not be added. CPE is not a part of a resultant contract.

64) Solicitation section reference: Uniform Terms and Conditions

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions

shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

AT&T Exception:

If awarded the business, AT&T will work with the State toward negotiation of an indemnity provision providing coverage for liability to third parties for direct damages to tangible property and bodily injury, including death, to the extent caused by the gross negligence or willful acts or omissions of AT&T.

All other terms and conditions relating to indemnity shall be as set forth in the Proposed Contract Documents, in particular the Pricing Schedules and Section 7 ("Third Party Claims") of the Unified Agreement.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
Please see response to item #27 above.

State's Final Response: Exception withdrawn by AT&T.

65) Solicitation section reference: Uniform Terms and Conditions

6.2.2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

AT&T Exception:

If awarded the business, AT&T will work with the State toward negotiation of an indemnity provision providing coverage for liability to third parties for direct damages to tangible property and bodily injury, including death, to the extent caused by the gross negligence or willful acts or omissions of AT&T.

State Response: Unacceptable, Contractor is to state willingness to comply to terms referenced in this Section prior to award.

AT&T's Revised Response:

AT&T and the State shall indemnify and hold each other and their Affiliates and their respective officers, directors, partner, principal, employees, agents, successors and permitted assignees harmless against Damages arising out of third party claims resulting from bodily injury to or death of any person (including injury to or death of their respective subcontractors or employees) or loss of or damage to tangible real or tangible personal property, to the extent that such liability, loss, damage or expense was proximately caused by the negligent act or omission or the willful or intentional misconduct of the party from whom indemnity is sought, its agents, employees or subcontractors, in connection with the provision or use of Services. AT&T shall not be liable under this Section for damages caused by service or equipment that is not furnished by AT&T under this Agreement.

State's Final Response: Exception withdrawn by AT&T.

66) Solicitation section reference: Uniform Terms and Conditions

6.3 Indemnification- Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not

AT&T Exception:

All terms and conditions relating to indemnification and holding the Customer harmless shall be as set forth in the Proposed Contract Documents, in particular Section 7 ("Third Party Claims") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:

AT&T and the State shall indemnify and hold each other and their Affiliates and their respective officers, directors, partner, principal, employees, agents, successors and permitted assignees harmless against damages arising out of third party claims resulting from bodily injury to or death of any person (including injury to or death of their respective subcontractors or employees) or loss of or damage to tangible real or tangible personal property, to the extent that such liability, loss, damage or expense was proximately caused by the negligent act or omission or the willful or intentional misconduct of the party from whom indemnity is sought, its agents, employees or subcontractors, in connection with the provision or use of Services. AT&T shall not be liable under this Section for damages caused by service or equipment that is not furnished by AT&T under this Agreement.

State's Final Response: Exception withdrawn by AT&T.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

67) Solicitation section reference: Uniform Terms and Conditions

6.4 Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

AT&T Exception:

All terms and conditions relating to force majeure shall be as set forth in the Proposed Contract Documents, in particular Section 10.4 ("Force Majeure") of the Unified Agreement. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

68) Solicitation section reference: Uniform Terms and Conditions

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

AT&T Exception:

All terms and conditions relating to force majeure shall be as set forth in the Proposed Contract Documents, in particular Section 10.4 ("Force Majeure") of the Unified Agreement. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

69) Solicitation section reference: Uniform Terms and Conditions

6.4.2.3 In ability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

AT&T Exception:

All terms and conditions relating to force majeure shall be as set forth in the Proposed Contract Documents, in particular Section 10.4 ("Force Majeure") of the Unified Agreement. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

70) Solicitation section reference: Uniform Terms and Conditions

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

AT&T Exception:

~~All terms and conditions relating to force majeure shall be as set forth in the Proposed Contract Documents, in particular Section 10.4 ("Force Majeure") of the Unified Agreement. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.~~

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T withdraws this exception.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

State's Final Response: Exception withdrawn by AT&T.

71) Solicitation section reference: Uniform Terms and Conditions

6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

AT&T Exception:
All terms and conditions relating to force majeure shall be as set forth in the Proposed Contract Documents, in particular Section 10.4 ("Force Majeure") of the Unified Agreement. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

72) Solicitation section reference: Uniform Terms and Conditions

7. Warranties
7.1 Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.
7.2 Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:
7.2.1 Of a quality to pass without objection in the trade under the Contract description;
7.2.2 Fit for the intended purposes for which the materials are used;
7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
7.2.4 Adequately contained, packaged and marked as the Contract may require; and
7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.
7.3 Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
7.4 Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

AT&T Exception:
AT&T does not make the warranties in Sections 7.1 to 7.4. All terms and conditions relating to warranties shall be as set forth in the Proposed Contract Documents, in particular Section 6 ("Limitations of Liability and Disclaimers") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

Disclaimer of Warranties. AT&T MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT AND SPECIFICALLY DISCLAIMS ANY WARRANTY ARISING BY USAGE OF TRADE OR BY COURSE OF DEALING. FURTHER, AT&T MAKES NO REPRESENTATION OR WARRANTY THAT TELEPHONE CALLS OR OTHER TRANSMISSIONS WILL BE ROUTED OR COMPLETED WITHOUT ERROR OR INTERRUPTION (INCLUDING CALLS TO 911 OR ANY SIMILAR EMERGENCY RESPONSE NUMBER) AND MAKES NO GUARANTEE REGARDING NETWORK SECURITY, THE ENCRYPTION EMPLOYED BY ANY SERVICE, THE INTEGRITY OF ANY DATA THAT IS SENT, BACKED UP, STORED OR SUBJECT TO LOAD BALANCING OR THAT AT&T'S SECURITY PROCEDURES WILL PREVENT THE LOSS OR ALTERATION OF OR IMPROPER ACCESS TO CUSTOMER'S DATA AND INFORMATION.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:

AT&T proposes the following as a substitution for Section 7 above:

LIENS: AT&T warrants that the materials supplied under this Contract are free of third party liens and shall remain free of such liens.

MATERIAL AND SOFTWARE WARRANTY: AT&T shall pass through to the State any warranties for Material and Software available from the manufacturer or licensor. The manufacturer or licensor, and not AT&T, is responsible for any such warranty terms and commitments. ALL MATERIAL AND SOFTWARE IS OTHERWISE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS.

State's Final Response: Not accepted, this was addressed with the Special Terms and Conditions Section 16.

73) Solicitation section reference: Uniform Terms and Conditions

7.5 Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

AT&T Exception:
AT&T will be responsible for obtaining licenses and permits required for its work at its cost, and the State will be responsible for obtaining any easements, rights-of-way or other consents required, at its cost.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

State Response: Unacceptable, Contractor shall be responsible for all costs in obtaining easements, rights of way or other consents required.

AT&T Revised Response:
AT&T withdraws this exception, but notes that the State is responsible for obtaining all rights to access and/or use private property at its locations.

State's Final Response: Exception withdrawn by AT&T.

74) Solicitation section reference: Uniform Terms and Conditions

7.6 Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

AT&T Exception:
Should the parties agree that the method of purchase for any products/services provided under this RFP shall be via Customer's purchase order, such purchase orders must clearly provide that the purchase is made pursuant to the mutually agreed contract documents between the parties and such orders will not be subject to the preprinted terms of that purchase order form.

State Response: Unacceptable . The Contract language stat es, " P urchase Orders shall be in acco rdance with t he re quirem ents set fo rth herein" .

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

75) Solicitation section reference: Uniform Terms and Conditions

8. State's Contractual Remedies

8.1 Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

AT&T Exception:
In response to Section 8 and all subsections thereto, all terms and conditions relating to termination shall be as set forth in the Proposed Contract Documents, in particular Section 8 ("Suspension and Termination") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:

AT&T accepts subject to the following addition at the end of this Section:
"AT&T shall be provided a minimum of ten Days to provide the required response."

State's Final Response: Exception withdrawn by AT&T during verbal discussions on 1/20/15.

76) Solicitation section reference: Uniform Terms and Conditions

8.2 Stop Work Order.

8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

AT&T Exception:
In response to Section 8 and all subsections thereto, all terms and conditions relating to termination shall be as set forth in the Proposed Contract Documents, in particular Section 8 ("Suspension and Termination") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

AT&T proposes at the end of this section the following:
"provided that the State shall be responsible for any reasonably incurred unrecoverable expense incurred by AT&T."

State's Final Response: The following clarification is accepted: AT&T will receive payment for all accepted products and services in process prior to the issuance of the Stop Work Order.

77) Solicitation section reference: Uniform Terms and Conditions

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

AT&T Exception:
In response to Section 8 and all subsections thereto, all terms and conditions relating to termination shall be as set forth in the Proposed Contract Documents, in particular Section 8 ("Suspension and Termination") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

78) Solicitation section reference: Uniform Terms and Conditions

8.3 Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

AT&T Exception:
In response to Section 8 and all subsections thereto, all terms and conditions relating to termination shall be as set forth in the Proposed Contract Documents, in particular Section 8 ("Suspension and Termination") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T accepts Section 8.3 subject to the following addition at the beginning thereof:
"Except as otherwise mutually agreed in a service order,"

State's Final Response: Exception withdrawn by AT&T. Non Exclusive remedies means the remedies described are in addition to any other remedies available and does not replace those remedies

79) Solicitation section reference: Uniform Terms and Conditions

8.4 Non conforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

AT&T Exception:
In response to Section 8 and all subsections thereto, all terms and conditions relating to termination shall be as set forth in the Proposed Contract Documents, in particular Section 8 ("Suspension and Termination") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T proposes to strike this Section.

Merely delivering a portion of services or material that does not fully comply with the Contract is not a material breach of the Contract but only at most a breach of the applicable order, which should be subject to a reasonable right to cure.

State's Final Response: Accepted as clarification, no change to original RFP language required.

80) Solicitation section reference: Uniform Terms and Conditions

8.5 Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non- conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

AT&T Exception:
AT&T does not agree for any offsets as described in this Section.

State Response: Unacceptable

AT&T's Revised Response:

Except as required by law, AT&T does not agree to permit offsets of amounts otherwise properly due.

State's Final Response: Not Accepted. This term is a restatement of a contractual remedy available under the UCC. Even if this term was removed from a resultant contract in the event of a breach by the contractor, the State of AZ would still have this remedy available to us.

81) Solicitation section reference: Uniform Terms and Conditions
9. Contract Termination

AT&T Exception:
In response to Section 9 and all subsections thereto, all terms and conditions relating to termination shall be as set forth in the Proposed Contract Documents, in particular Section 8 ("Suspension and Termination") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

In response to Section 9 and all subsections thereto, all terms and conditions relating to termination shall be as set forth in the Proposed Contract Documents, in particular Section 8 ("Suspension and Termination") of the Unified Agreement and all subsections thereto. In addition, terms and conditions in the applicable Pricing Schedule(s) may apply.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T proposes the following new exceptions to section within Section 9 of the Uniform Terms and conditions:

9.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State. For the purposes of this section, a suspension or debarment shall not be deemed to have occurred if there is a pending proceeding, including but not limited to an appeal, relating to such suspension or debarment.

~~9.4 Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.~~

9.5 Termination for Default.

9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to: (i) comply with any material term or condition of the Contract, or (ii) to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract, if such failure continues unremedied for 30 days after Contractor's receipt of notice. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.3 The State may, upon termination of this Contract, procure, on commercially reasonable terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

State's Final Response:
9.3 – Additional language accepted and shall be added to the end of the paragraph as excepted by AT&T
9.4 – The State will not strike this paragraph as requested by AT&T.
9.5.1 – Accepted and shall read as above.
9.5.3 – Accepted and shall read as above.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

82) Solicitation section reference: Uniform Terms and Conditions

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

AT&T Exception:

AT&T does not agree to limit dispute resolution to an arbitration forum.

State Response: Unacceptable

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

83) Solicitation section reference: Uniform Instructions to Offerors

Uniform Instructions to Offerers

3.4 Subcontracts. Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

AT&T Exception:

Our subcontractors' contractual details are proprietary information.

State Response: Unacceptable. This shall be subject to an NDA but subcontractors must be given.

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

84) Solicitation section reference: Uniform Instructions to Offerors

3. Offer Preparation

3.8 Identification of Taxes in Offer. The State is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the Solicitation. When applicable, the tax rate and amount shall be identified on the price sheet.

AT&T Exception:

All terms and conditions relating to payment of taxes shall be as set forth in the Proposed Contract Documents, in particular the Pricing Schedule(s) and Section 4 ("Pricing and Billing") of the Unified Agreement and all subsections thereto.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

85) Solicitation section reference: Uniform Instructions to Offerors

3.10 Delivery. Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).

AT&T Exception:

AT&T will not agree to an FOB Destination provision, as the terms of the Unified Agreement and associated pricing quoted herein assumes FOB Shipping. However, if FOB Destination is required, AT&T is willing to negotiate such terms with the understanding that the final prices (not reflected in this bid Response) may increase as a result.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
Except as specified in a Service Publication, title to Purchased Equipment shall pass to the State on delivery to the transport carrier for shipment to the State's designated location. AT&T will purchase transit insurance to cover risk of loss of the hardware to delivery to the State's designated location. AT&T will bill such transit insurance as part of the shipping costs, unless otherwise agreed in the State Order.

State's Final Response: Unaccepted.

86) Solicitation section reference: Uniform Instructions to Offerors

3.12 Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services,

redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the Offer.

AT&T Exception:

AT&T is proposing a well-established and industry leading AT&T services that will comply with the service levels, warranties and all other terms and conditions in the Proposed Contract Documents. While many service components will be provided solely by workers within the United States, some service support may be performed at non-United States locations.

State Response: Unacceptable, refer to highlighted text above in section 3.12.

AT&T's Revised Response:

This section imposes requirements that are inherently incompatible with some AT&T services, including, e.g., international telecommunications and internet services. In addition, AT&T requests clarification as to whether help desk/ customer service/ support services are defined as "overhead", "indirect", or "incidental" to the AT&T services referenced in its response.

State's Final Response: Exception #54 was accepted as clarification and AT&T withdrawals this exception.

87) Solicitation section reference: Uniform Instructions to Offerors

4. Submission of Offer

4.4 Offer Amendment or Withdrawal. An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

AT&T Exception:

AT&T will hold the prices quoted for a period of 90 days and will endeavor to extend this period to the length of time as requested by this document.

State Response: Unacceptable.

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

88) Solicitation section reference: Uniform Instructions to Offerors

5. Evaluation

5.2 Taxes. If the products and/or services specified require transaction privilege or use taxes, they shall be described and itemized separately on the Offer. Arizona transaction privilege and use taxes shall not be considered for evaluation.

AT&T Exception: AT&T Response:

All terms and conditions relating to payment of taxes shall be as set forth in the Proposed Contract Documents, in particular the Pricing Schedule(s) and Section 4 ("Pricing and Billing") of the Unified Agreement and all subsections thereto.

State Response: Unacceptable. The State is not accepting AT& T's Unified Agreement

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

89) Solicitation section reference: Uniform Instructions to Offerors

5.6 Offer Acceptance Period. An Offeror submitting an Offer under the Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred twenty (120) days from the Best and Final Offer due date.

AT&T Exception:

AT&T will hold the prices quoted for a period of 90 days and will endeavor to extend this period to the length of time as requested by this document.

State Response: Unacceptable

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

90) Solicitation section reference: Uniform Instructions to Offerors

5.7 Waiver and Rejection Rights. Notwithstanding any other provision of the Solicitation, the State reserves the right to:
5.7.1 Waive any minor informality;
5.7.2 Reject any and all Offers or portions thereof; or
5.7.3 Cancel the Solicitation.

AT&T Exception:

AT&T understands the Customer's right to waive irregularities and informalities provided AT&T has reserved all rights, consistent with this RFP and/or applicable local and state procurement statutes, ordinances, guidelines and other applicable authorities, to contest an award made under this RFP. Subject to the foregoing, AT&T agrees.

State Response: Unacceptable

AT&T's Revised Response:
AT&T withdraws this exception.

State's Final Response: Exception withdrawn by AT&T.

AT&T Second Revised Response:

The terms and conditions contained within this RFP document do not contain the product- and service-related contractual terms necessary for AT&T to properly deliver the products and services described in the Response. In that light, AT&T submits the following additional clauses to be added to the final contract document. The pricing submitted in the Response assumes the use of these clauses as part of any final, negotiated contract.

1. The following additional documents (collectively, the "Agreement") shall apply to all products and services AT&T provides Customer pursuant to this Agreement ("Services") and shall continue in effect so long as Services are provided under this Agreement:

1.1 Tariffs and Guidebooks. "Tariffs" are documents containing the descriptions, pricing and other terms and conditions for a Service that AT&T or its Affiliates file with regulatory authorities. "Guidebooks" are documents (designated as Guidebooks or Price Lists) containing the descriptions, pricing and other terms and conditions for a Service that were but no longer are filed with regulatory authorities. Tariffs and Guidebooks can be found at att.com/servicepublications or other locations AT&T may designate.

1.1.1 Terms and conditions of the State master contract will take precedence over the AT&T Document found on the above referenced website. This is based on order of precedence found within Uniform Terms and Conditions section 2.3.

1.2 Acceptable Use Policy. AT&T's Acceptable Use Policy ("AUP") applies to (i) Services provided over or accessing the Internet and (ii) wireless (*i.e.*, cellular) data and messaging Services. The AUP can be found at att.com/aup or other locations AT&T may designate.

1.2.1 Terms and conditions of the State master contract will take precedence over the AT&T Document found on the above referenced website. This is based on order of precedence found within Uniform Terms and Conditions section 2.3.

1.3 Service Guides. The descriptions, pricing and other terms and conditions for a Service not covered by a Tariff or Guidebook may be contained in a Service Guide, which can be found at att.com/servicepublications or other locations AT&T may designate.

1.3.1 Terms and conditions of the State master contract will take precedence over the AT&T Document found on the above referenced website. This is based on order of precedence found within Uniform Terms and Conditions section 2.3.

1.4 Revisions to Documents. AT&T may revise Service Publications at any time. Such revisions may include changes to features, availability and technical aspects of the services.

1.4.1 Customer shall subscribe to the subscription service available under "Tools" at the following URL: http://serviceguidenew.att.com/. This service will automatically notify the State's designated point of contact monthly of modifications to the applicable Service Guide(s) to this contract. Customer must select the applicable Service Guide(s) as part of the subscription process.

1.4.2 If AT&T revises a Service Publication, the revision has a materially adverse impact on Customer and AT&T does not effect revisions that remedy such materially adverse impact within 30 days after receipt of notice from Customer, then Customer may, as Customer's sole remedy, elect to terminate the affected Service Components on 30 days' notice to AT&T, given not later than 90 days after Customer first learns of the revision to the Service Publication. "Materially adverse impacts" do not include changes to non-stabilized pricing, changes required by governmental authority, or assessment of or changes to additional charges such as surcharges or taxes.

2. AT&T DELIVERABLES

2.1 **Services**. AT&T will either provide or arrange to have an AT&T Affiliate provide Services to Customer and its Users, subject to the availability and operational limitations of systems, facilities and equipment. Where required, an AT&T Affiliate authorized by the appropriate regulatory authority will be the service provider.

2.2 **AT&T Equipment**. Services may be provided using equipment owned by AT&T that is located at the Site ("AT&T Equipment"), but title to the AT&T Equipment will remain with AT&T. Customer must provide adequate space and electric power for the AT&T Equipment and keep the AT&T Equipment physically secure and free from liens and encumbrances. Customer will bear the risk of loss or damage to the AT&T Equipment (other than ordinary wear and tear), except to the extent caused by AT&T or its agents.

3. CUSTOMER'S COOPERATION

3.2 **Safe Working Environment**. Customer will ensure that the location at which AT&T installs, maintains or provides Services is a safe working environment, free of Hazardous Materials and reasonably suitable for the Services. "Hazardous Materials" mean any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal or release is regulated by any law related to pollution, to protection of air, water or soil or to health and safety. AT&T shall have no obligation to perform work at a location that is not a suitable and safe working environment or to handle, remove or dispose of Hazardous Materials.

Final Exception Document
Mutually agreed to by the State of Arizona and AT&T Mobility.

3.3 **Resale of Services**. Customer may not resell the Services or rebrand the Services for resale to third parties without AT&T's prior written consent.

4. **Privacy**. Each party is responsible for complying with the privacy laws applicable to its business. AT&T shall require its personnel, agents and contractors around the world who process Customer Personal Data to protect Customer Personal Data in accordance with the data protection laws and regulations applicable to AT&T's business. If Customer does not want AT&T to comprehend Customer data to which it may have access in performing Services, Customer must encrypt such data so that it will be unintelligible. Customer is responsible for obtaining consent from and giving notice to its Users, employees and agents regarding Customer's and AT&T's collection and use of the User, employee or agent information in connection with a Service. Customer will only make accessible or provide Customer Personal Data to AT&T when it has the legal authority to do so. Unless otherwise directed by Customer in writing, if AT&T designates a dedicated account representative as Customer's primary contact with AT&T, Customer authorizes that representative to discuss and disclose Customer's customer proprietary network information to any employee or agent of Customer without a need for further authentication or authorization.

5. **IMPORT/EXPORT CONTROL**
Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under this Agreement (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

6. **Injunctive Relief**. Nothing in this Agreement is intended to or should be construed to prohibit a party from seeking preliminary or permanent injunctive relief in appropriate circumstances from a court of competent jurisdiction.

State's Final Response: The State accepts the above language and it shall be added to the Special Terms and Conditions of a resultant contract.

The State of Arizona has revised language within resultant contracts as follows:

1. Scope of Work section 7.2.4.1, shall be deleted in its entirety and replaced with the following language:

7.2.4.1 If Full Service Restoration is not completed the Contractor shall be liable for 1/720 of the MRC for each hour after the allowable response time has been exhausted. This will be seen in the form of a credit against the billed amount at the end of the month.

An "Outage" is an interruption in Service or use of the Equipment caused by a failure of the Contractor's Network, excluding degradation or disruption due to planned or emergency maintenance or an event outside of the Contractor's direct control.

2. Special Terms and Conditions section 6.1 Method of Assessment shall be deleted in its entirety and replaced with the following language:

6.1 Method of Assessment. At the completion of each quarter, the Contractor reviews all sales under their contract in preparation for submission of their Usage Report. The Contractor identifies all sales receipts transacted by members of the State Purchasing Cooperative and assesses one percent (1.0%) of this amount in their Usage Report. An updated list of State Purchasing Cooperative members may be found at: https://spo.az.gov/state-purchasing-cooperative. At its option, the State may expand or narrow the applicability of this fee.

For this contract only, the State of Arizona will not assess the 1% administrative fee to Contractors for E-Rate eligible purchases. E-Rate eligible purchases can be made by eligible recipients per 47 CFR §54.501. To determine if a customer is an eligible recipient the Contractor shall refer to the following web address:
http://usac.org/sl/applicants/beforeyoubegin/definitions.aspx

The Contractor shall summarize all sales, along with all assessed Administrative Fee amounts within their Usage Report, including total amounts for the following:

- Total sales receipts from State agencies, boards and commissions;
- Total sales receipts from members of the State Purchasing Cooperative; and
- Total Administrative Fee amount based on one percent (1.0%) of the sales receipts from members of the State Purchasing Cooperative.