Final Exception Document
Mutually agreed to by the State of Arizona and Suddenlink Communications

The following are the exceptions which were submitted by Mercury Voice & Data, LLC d/b/a Suddenlink Communications 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

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.

Suddenlink Exception:

Customer contracts or orders may be cancelled due to Non-appropriation of funds but Customer shall be liable to Suddenlink to the fullest extent permitted by law including Suddenlink's actual damages including any and all unpaid non-recurring charges, any unpaid past due balance(s), and the reasonable value of any unreimbursed costs (exclusive of recurring charges related to the ongoing maintenance and upkeep of the facilities).

State's Initial Response: Unacceptable.
The issuance of a Purchase Order upon contract award shall indicate the availability of funding for the current fiscal year.

Suddenlink Response: Suddenlink accepts this requirement without exception.

State's Final Response: Exception withdrawn by Suddenlink.

2) 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.

Suddenlink Exception:

Suddenlink is exempt from having to be HIPPA compliant since the services being provided under this agreement are not hosted. Suddenlink will just provide the "pipe" and will not have access to the information being transported across our network.

State's Initial Response: Unacceptable

Suddenlink Response: Suddenlink accepts this requirement without exception.

State's Final Response: Exception withdrawn by Suddenlink.

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3) 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.

Suddenlink Exception:
Suddenlink's policy includes credit monitoring; however, it does not provide coverage for the cost of involved in credit remediation.
Suddenlink's Crime Policy covers computer fraud or funds transfers.

State's Initial Response: Unacceptable, Contractor is responsible to state compliance with terms as written within solicitation.

Suddenlink Response: Suddenlink accepts this requirement without exception.

State's Final Response: Exception withdrawn by Suddenlink.

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.